

Office of the State Attorney  
Fourth Judicial Circuit of Florida  
www.sao4th.com



311 West Monroe Street  
Jacksonville, Florida 32202-4242  
Tel: (904) 255-2500

**MELISSA W. NELSON**  
**STATE ATTORNEY**

August 7, 2019

Honorable Ron DeSantis  
Governor, State of Florida  
Attn: Susan Smith  
Governor's Legal Office  
The Capitol, Room 209  
Tallahassee, Florida 32399

RE: Request for Executive Assignment;  
July 2019 Audit Report for the Fourth Circuit Public Defender's Office

Dear Governor DeSantis:

In November of 2017, Public Defender, Charlie Cofer, provided the State Attorney's Office with a copy of a civil demand letter his office had sent to former Public Defender Matt Shirk ("Shirk"), enclosed here ("Civil Demand Letter"). The Civil Demand Letter sought reimbursement from Shirk in the total amount of \$5,241.96 for the following:

1. The failure of the Florida Retirement System ("FRS") to account for pay adjustments in their payroll system, resulting in FRS not fully deducting Shirk's 3% retirement contributions for the pay periods of October – December 2014, and September – December 2015 - (\$2,203.99);
2. Shirk's personal use of office motor vehicles from 2012 – 2016 - (\$668.37);
3. Expenditures related to a 2016 auto accident in which Shirk was alleged to be at-fault while driving a state owned vehicle for personal business - (\$2,369.60).

In July 2019, the State of Florida Auditor General ("Auditor") released an Operational Audit Report ("Report") relating to various agencies, including the Public Defender's Office for the Fourth Judicial Circuit. The Report covers the timeframe from July 2015 through December 2016. The Report does not specifically indicate any criminal law violations but unlike the Civil Demand Letter, it outlines alleged conduct that may

warrant further review and investigation to determine the implication of any criminal law.

In 2013, then State Attorney, Angela Corey, requested an executive assignment to investigate possible misconduct in the Office of the Public Defender for the Fourth Judicial Circuit and Public Defender, Matt Shirk. By Executive Order 13-239, Governor Scott assigned the State Attorney's Office for the Eighth Judicial Circuit to handle the investigation. A Grand Jury was convened to investigate the case, which ultimately resulted in a presentment.

Prior to becoming the elected State Attorney, I testified in the proceedings held before the Grand Jury investigating Shirk. I was also a signatory on a bar complaint that was filed against Shirk.

Additionally, a current employee of the State Attorney's Office, who was previously employed as a Deputy Clerk with the Duval County Clerk's Office served as the Deputy Clerk when the Grand Jury rendered their presentment at the conclusion of their investigation of Shirk.

Based on the foregoing, a clear conflict of interest exists. In order to avoid any appearance of impropriety, we are requesting reassignment to another Judicial Circuit for further investigation and determination of whether any criminal violations have taken place.

There are no file materials beyond the 2019 Auditors Report to provide upon reassignment at this time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Melissa W. Nelson".

Melissa W. Nelson

Enclosure(s): Civil Demand Letter  
July 2019 Audit Report for the Fourth Circuit Public Defender's Office  
Executive Order 13-239

MWN/mmn





**Office of the Public Defender**  
**Fourth Judicial Circuit of Florida**

Serving Duval, Clay & Nassau Counties

Charlie Cofer  
Public Defender

Lewis H. Buzzell III  
Chief Assistant

November 3, 2017

Mr. Matt Shirk

ASA or LEO

RE: Demand for Payments Due to the Public Defender's Office

Dear Mr. Shirk:

On December 5, 2016, and January 19, 2017, you were advised by the Department of Financial Services that your 3% Florida Retirement System (FRS) retirement contributions were not fully deducted for the pay periods of October-December 2014, and September-December 2015, resulting in an underpayment on your part of \$2,203.99. You were directed to make a check payable to the State and forward it to Denise Ostertag to cure the underpayment on your part. The office has not received your payment as of this date.

Before leaving the office, you were also advised that you owed reimbursement to the office for personal use of office motor vehicles in the following amounts:

2015-16	\$170.34
2014-15	\$169.13
2013-14	\$103.40
2012-13	\$225.50
<u>TOTAL</u>	<u>\$668.37</u>

The office has not received these payments as of this date.

Finally, you were the at-fault driver in a motor vehicle accident that occurred on June 12, 2016, which resulted in damage to a vehicle owned by Craig Flakes. This occurred while the office car was being used by you for personal reasons. As a result of this accident, the office had to pay a total of \$2,369.60 to repair Mr. Flakes' vehicle (\$2,138.48) and for his rental car (\$231.12). You have not reimbursed the office for this expenditure nor made claim on your personal insurance to reimburse the office for this loss.

By this letter, we demand that you make the following reimbursements to the office on or before December 18, 2017:

\$2,203.99	(Florida Retirement system underpayment)
\$ 668.37	(non-cash use of office vehicle for personal use)
\$2,369.60	(Motor Vehicle damage for Flakes Accident)

We ask that separate checks be tendered for each amount due for accounting purposes.

Should you fail to make any of the payments due to the office, we will be required to take steps necessary to recover these amounts which are owed to the State of Florida.

Sincerely,



Denise Ostertag  
Administrative Director

Enclosures:

DFS Letter of January 19, 2017  
DFS Letter of December 5, 2017  
Batch Sheet for Craig Flakes Payments





CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
STATE OF FLORIDA

January 19, 2017

The Honorable Matthew Shirk

ASA or LEO

Dear Mr. Shirk:

This pertains to my letter that I sent you dated December 5, 2016 regarding your retirement contributions in 2014 and 2015.

Unfortunately, an adjustment made to your records in 2014 was not originally accounted for when determining your retirement contributions total underpayment amount owed. The correct amount owed is \$2,203.99 not \$2,264.89. Enclosed are the details of your 2014 and 2015 retirement contributions.

Please remit a check made payable to the State of Florida in the amount of \$2,203.99 and send it to the following address:

Public Defender's Office, 4<sup>th</sup> Judicial Circuit  
Attn: Denise Ostertag  
407 N. Laura Street  
Jacksonville, Florida 32202

We have made the necessary pay adjustments to your records in the State's payroll system to correct this inadvertent oversight. The W-2c Form (Corrected Wage and Tax Statement) resulting from this adjustment is enclosed for your records.

Please accept our apologies.

You may contact John Bennett, Chief, Bureau of State Payrolls at (850) 413-5609 or [john.bennett@myfloridacfo.com](mailto:john.bennett@myfloridacfo.com) if you have any questions.

Sincerely,

Christina Smith

CBS/jb

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

Christina Smith • Director

Division of Accounting and Auditing

200 East Gaines Street • Tallahassee, Florida 32399-0353 • Tel. 850-413-5510 • Fax. 850-413-5553

Email • [christina.smith@myfloridacfo.com](mailto:christina.smith@myfloridacfo.com)

AFFIRMATIVE ACTION • EQUAL OPPORTUNITY EMPLOYER

Mr. Matthew Shirk  
January 19, 2017  
Page 2

Enclosures

cc: Carolyn Horwich  
Director, Human Resources  
Justice Administrative Commission

Denise Osterlag  
Administrative Director  
Public Defender's Office, 4<sup>th</sup> Judicial Circuit

Mr. John Bennett, Chief  
Bureau of State Payrolls  
Department of Financial Services





CHIEF FINANCIAL OFFICER  
**JEFF ATWATER**  
STATE OF FLORIDA

December 5, 2016

The Honorable Matthew Shirk

ASA or LEO

Dear Mr. Shirk:

This is to notify you that your 3% Florida Retirement System (FRS) retirement contributions were not fully deducted for the pay periods of October-December 2014 and September-December 2015. A miscalculation of the Federal maximum 415(c) retirement contribution limit occurred in the state's FLAIR payroll system causing the employer and employee contributions to be underpaid during these months. The total underpayment amount of your employee contributions is \$2,264.89.

There has been no impact to your investment plan account. The Department of Management Services, Division of Retirement, timely funded your retirement contribution underpayments using monies from the FRS trust fund. The Division of Retirement is required to obtain reimbursement of overpayment of wages to the FRS trust fund for the monies used to make your retirement account whole.

Please remit a check (or checks if you wish to pay in monthly installments) made payable to the State of Florida in the amount of \$2,264.89 and send it to the following address:

Public Defender's Office, 4<sup>th</sup> Judicial Circuit  
Attn: Denise Ostertag  
407 N. Laura Street  
Jacksonville, Florida 32202

The Department of Financial Services (DFS) has made the necessary pay adjustments to your records in the State's payroll system to correct your 3% retirement contribution underpayments amounts. This resulted in DFS issuing you two W-2c Forms (Corrected Wage and Tax Statement), which are enclosed. The W-2c Forms will decrease your taxable wages that were listed in Box 1 (Wages, tips and other compensation) of your original 2014 and 2015 W-2 Form. You may need to amend your 2014 and 2015 tax returns (IRS Form 1040). We have established a contract with a Certified Public Accountant (CPA) firm to provide assistance to you in amending your 2014 and 2015 tax returns. If you would like to take advantage of this free

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

Christina Smith • Director

Division of Accounting and Auditing

200 East Gaines Street • Tallahassee, Florida 32399-0353 • Tel. 850-413-5510 • Fax. 850-413-5553

Email • [christina.smith@myfloridacfo.com](mailto:christina.smith@myfloridacfo.com)

AFFIRMATIVE ACTION • EQUAL OPPORTUNITY EMPLOYER

Mr. Matthew Shirk  
December 5, 2016  
Page 2

service, please contact our contract manager, Ms. Jill Sittig, Financial Administrator, at (850) 413-5676 or [jill.sittig@myfloridacfo.com](mailto:jill.sittig@myfloridacfo.com) by December 30, 2016.

We sincerely regret any inconvenience this may cause you.

Please contact John Bennett, Chief, Bureau of State Payrolls at (850) 413-5609 or [john.bennett@myfloridacfo.com](mailto:john.bennett@myfloridacfo.com) if you have any questions.

Sincerely,



Christina Smith

CBS/jb

Enclosures

cc: Carolyn Horwich  
Director, Human Resources  
Justice Administrative Commission

Denise Ostertag  
Administrative Director  
Public Defender's Office, 4<sup>th</sup> Judicial Circuit

Mr. John Bennett, Chief  
Bureau of State Payrolls  
Department of Financial Services



ORG: Office of the Public Defender, Fourth Circuit

ORG CD: 21 60 04 00 000

EO: DL

SF: 1 BEN OBJ:

FID: 000047 BEN CAT:

BATCH SHEET  
(Regular)

AGENCY REF: 17-0027

PAGE 1 OF 1

JAC NO:

FUND:

17-GR26 (GR - Operations)

County	Object	Amount	Vendor total	Vendor name	Vendor no	Tran date	Invoice no	FACTS contract
016	446000	\$231.12	\$231.12	FLAKES, CRAIG B.	F263898922001	07/25/16	448309	
016	243028	\$2,138.48	\$2,138.48	TOM BUSH COLLISION CEN	F593589387001	07/25/16	6515009	

Batch total: \$2,369.60

I hereby certify that the above transactions are in accordance with the Florida Statutes and all applicable laws and rules of the State of Florida. I also certify by evidence of the signature(s) below that, to the best of my knowledge, the information on this form is true and correct; all goods and services have been satisfactorily received, if applicable; payment is in accordance with the authorized rate of compensation; and this circuit/office will maintain the documentation that authorizes the purchases and agreed rates and will be made available upon request.

*Denise K. Overtag*

Authorized By: DENISE K. OVERTAG  
Administrative Director - SM

Special Instruct.

26-Jul-16

Date

Date Received by JAC

26-Jul-16

Date

Prepared By: CRAIG A. SHOUP  
Staff Assistant II

# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 13-239

WHEREAS, the Honorable ANGELA COREY, State Attorney for the Fourth Judicial Circuit of Florida, has advised Governor RICK SCOTT that reports of possible misconduct in the Office of the Public Defender of the Fourth Judicial Circuit warrant a review for potential violations of public records laws and any related misconduct; and

WHEREAS, the Honorable ANGELA COREY has also advised the Governor that any investigation of allegations arising out of the Public Defender's Office by her office could be perceived to undermine the Public Defender's representation of clients; and

WHEREAS, the Honorable ANGELA COREY, to avoid any appearance of conflict of interest or impropriety, has voluntarily disqualified herself and has request the executive assignment of another State Attorney with respect to the investigation and potential prosecution of this case and all related matters; and

WHEREAS, the Honorable WILLIAM P. CERVONE, State Attorney for the Eighth Judicial Circuit of Florida, has agreed to accept an executive assignment in this matter; and

WHEREAS, it is in the best interest of the State of Florida and of the ends of justice that the Honorable WILLIAM P. CERVONE discharge the duties of the Honorable ANGELA COREY, pursuant to Section 27.14, Florida Statutes;

NOW, THEREFORE, I, RICK SCOTT, Governor of Florida, in obedience to my solemn constitutional duty to "take care that the laws be faithfully executed," and pursuant to the Constitution and laws of the State of Florida, issue the following Executive Order, effective immediately:



Section 1.

The Honorable WILLIAM P. CERVONE, State Attorney for the Eighth Judicial Circuit of

Florida, referred to as the "Assigned State Attorney," is assigned to discharge the duties of the

Honorable ANGELA COREY, State Attorney for the Fourth Judicial Circuit of Florida, as they relate to the investigation, potential prosecution and all matters related to allegations of public records laws violations and any related misconduct in the Office of the Public Defender of the Fourth Judicial

Circuit.

Section 2.

The Assigned State Attorney or one or more Assistant State Attorneys and Investigators, who

have been designated by the Assigned State Attorney, shall proceed immediately to the Fourth Judicial Circuit of Florida, and are vested with the authority to perform the duties prescribed herein.

Section 3.

All residents of the Fourth Judicial Circuit are requested, and all public officials are directed, to cooperate and render whatever assistance is necessary to the Assigned State Attorney, so that justice

may be served.

Section 4.

The period of this Executive Assignment shall be for one (1) year, to and including August 29,

2014.

Section 5.

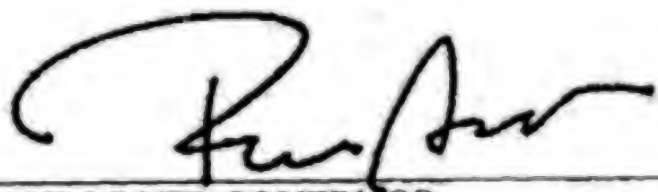
The Assigned State Attorney shall notify the Governor on or before July 29, 2014, if additional time is required.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 29th day of August, 2013.



ATTEST:

Ken Detzner  
SECRETARY OF STATE

  
RICK SCOTT, GOVERNOR

FILED  
2013 AUG 29 PM 5:49  
TALLAHASSEE, FLORIDA  
STATE



# STATE OF FLORIDA AUDITOR GENERAL

## Operational Audit

Report No. 2020-008  
July 2019

**JUSTICE ADMINISTRATIVE COMMISSION,  
STATEWIDE GUARDIAN AD LITEM OFFICE,  
AND SELECTED OFFICES OF  
STATE ATTORNEYS,  
PUBLIC DEFENDERS,  
CRIMINAL CONFLICT AND CIVIL REGIONAL  
COUNSELS, AND  
CAPITAL COLLATERAL REGIONAL COUNSELS**



Sherrill F. Norman, CPA  
Auditor General

## **Officials and Executive Director**

The Justice Administrative Commission Executive Director and officials of the other judicial agencies included in this audit who served during the period July 2015 through December 2016 are listed below:

### **Justice Administrative Commission**

Alton L. "Rip" Colvin Jr., Executive Director

State Attorney, Fifth Judicial Circuit	Honorable Brad King, Chair
Public Defender, Nineteenth Judicial Circuit	Honorable Diamond R. Litty, Secretary
Public Defender, Twentieth Judicial Circuit	Honorable Kathleen A. Smith
State Attorney, Tenth Judicial Circuit	Honorable Jerry Hill

### **Statewide Guardian ad Litem Office**

Alan Abramowitz, Executive Director

### **Office of the State Attorney**

Second Judicial Circuit    Honorable Willie Meggs

### **Offices of the Public Defender**

Third Judicial Circuit	Honorable Blair Payne
Fourth Judicial Circuit	Honorable Matt Shirk

### **Offices of the Criminal Conflict and Civil Regional Counsel**

Second Region	Ita Neymotin
Third Region	Eugene Zenobi
Fourth Region	Antony Ryan
Fifth Region	Jeffrey Deen

### **Office of the Capital Collateral Regional Counsel**

Northern Region    Robert Friedman

The team leader was Michael E. Nichols, and the audit was supervised by Ted J. Sauerbeck, CPA.

Please address inquiries regarding this report to Michael J. Gomez, CPA, Audit Manager, by e-mail at [mikegomez@aud.state.fl.us](mailto:mikegomez@aud.state.fl.us) or by telephone at (850) 412-2881.

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**State of Florida Auditor General**

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**JUSTICE ADMINISTRATIVE COMMISSION, STATEWIDE GUARDIAN AD LITEM OFFICE,  
AND SELECTED OFFICES OF STATE ATTORNEYS, PUBLIC DEFENDERS,  
CRIMINAL CONFLICT AND CIVIL REGIONAL COUNSELS,  
AND CAPITAL COLLATERAL REGIONAL COUNSELS**

## ***SUMMARY***

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This operational audit of the Justice Administrative Commission (JAC); Statewide Guardian ad Litem Office (GAL); Office of the State Attorney (SA), Second (2) Circuit; Offices of the Public Defender (PD), Third (3) and Fourth (4) Circuits; Offices of the Criminal Conflict and Civil Regional Counsel (RC), Second (2), Third (3), Fourth (4), and Fifth (5) Regions; and Office of the Capital Collateral Regional Counsel Northern Region (CCRC-N) (herein collectively referred to as selected judicial agencies) focused on selected judicial agency activities and internal controls and included a follow-up on findings included in our report Nos. 2015-061 and 2012-176. Our audit disclosed the following:

### **General Management Controls**

**Finding 1:** The JAC and some other judicial agencies used the Business Office Management System (BOMS) for their accounting records, which unnecessarily duplicated the State accounting entries in the Florida Accounting Information Resource Subsystem. In addition, the JAC and other judicial agencies used the BOMS without a business continuity plan to mitigate the risk of system disruption or a formal disaster recovery plan to protect the agencies from data loss. Similar findings were noted in our report Nos. 2015-061 and 2012-176.

**Finding 2:** Although the Government Finance Officers Association recommends that governments consider establishing an internal audit function, as similarly noted in our report Nos. 2015-061 and 2012-176, the JAC and the other judicial agencies had not provided for an internal audit function.

**Finding 3:** The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N had not established comprehensive policies and procedures for the entities' operations.

**Finding 4:** Anti-fraud policies and procedures established by the selected judicial agencies lacked incident reporting procedures that allow individuals to anonymously report policy violations and known or suspected fraud.

**Finding 5:** The GAL direct-support organization for the 2015-16 and 2016-17 fiscal years did not operate pursuant to a written contract with the GAL, contrary to State law.

**Finding 6:** Incompatible duties were performed by SA2, PD3, RC2, and CCRC-N personnel, resulting in an increased risk that errors or fraud could occur without timely detection. Similar findings were noted in our report Nos. 2015-061 and 2012-176.

**Finding 7:** The JAC and CCRC-N did not always timely submit required performance reports to the Governor, the Chief Justice of the Supreme Court, the President of the Senate, or the Speaker of the House of Representatives.



## **Tangible Personal Property**

**Finding 8:** The SA2, PD3, and RC3 did not, of record, conduct a physical inventory of tangible personal property for the 2015-16 fiscal year, and several judicial agencies did not maintain, for physical inventories conducted, all the information required by Department of Financial Services (DFS) rules. A similar finding was noted in our report No. 2015-061.

**Finding 9:** Tangible personal property records for several judicial agencies lacked certain information required by DFS rules. A similar finding was noted in our report No. 2015-061.

**Finding 10:** The SA2, PD3, and RC5 had not established a review board to make recommendations regarding surplus property, contrary to State law. Also, the JAC, PD4, and RC3 needed to enhance controls to ensure documented authorizations of property disposals in accordance with DFS rules and prescribed agency procedures.

**Finding 11:** The RC2 did not maintain adequate accountability over certain property items.

**Finding 12:** The PD3 and PD4 did not always maintain adequate motor vehicle use and fuel consumption records.

## **Personnel and Payroll**

**Finding 13:** The SA2, PD3, PD4, RC2, RC3, RC4, and RC5 had not developed position descriptions for all positions identified in the applicable classification and pay plans. Also, JAC position descriptions did not specify education or work experience requirements.

**Finding 14:** The personnel files of certain judicial agencies lacked documentation evidencing verification of employee education and work experience. A similar finding was noted in our report No. 2015-061.

**Finding 15:** The former PD4 Public Defender approved compensatory time earned and administrative leave for several PD4 employees for time spent on activities related to a nonprofit organization; however, PD4 records did not evidence how the activities primarily served a public purpose related to the public defender duties prescribed by State law.

**Finding 16:** The former PD4 Public Defender awarded salary increases to several PD4 employees and documentation was not maintained to justify the increases.

**Finding 17:** The former PD4 Public Defender had not reimbursed the State \$5,242 for Florida Retirement System contributions paid on his behalf, fuel costs associated with personal use of a State-owned vehicle, and costs associated with an accident involving a State-owned vehicle.

**Finding 18:** RC5 OPS employee time sheets were not reviewed and approved by supervisory personnel, resulting in incorrect salary payments.

## **Procurement**

**Finding 19:** The JAC did not exercise the level of oversight required by State law for due process costs paid using purchasing cards.

**Finding 20:** GAL and PD4 records did not always demonstrate that contracts for services were awarded equitably and economically.



## Travel

**Finding 21:** As similarly noted in our report No. 2015-061, RC3 travel reimbursement requests were not always accompanied by supporting receipts. Also, it was not apparent of record why the former PD4 Public Defender needed to attend out-of-State conferences.

## BACKGROUND

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Pursuant to State law,<sup>1</sup> the Justice Administrative Commission (JAC) headquarters, is located in the State capital. The JAC includes two State Attorneys appointed by the Florida Prosecuting Attorneys Association President and two Public Defenders appointed by the Florida Public Defender Association President. Each JAC member serves a 2-year term and the JAC employs an executive director. Duties of the JAC include maintenance of a central State office for administrative services and assistance, when possible, to and on behalf of the Offices of the State Attorney (SA); Offices of the Public Defender (PD); Offices of the Criminal Conflict and Civil Regional Counsel (RC); Offices of the Capital Collateral Regional Counsel (CCRC), and the Statewide Guardian ad Litem Office (GAL).

The GAL was created, pursuant to State law,<sup>2</sup> within the JAC. The GAL executive director is appointed by the Governor for a 3-year term. The GAL has oversight responsibilities for, and provides technical assistance to, all guardian ad litem and attorney ad litem programs located within the State's judicial circuits.

State law<sup>3</sup> established a SA and PD, for each of the 20 judicial circuits. The State Attorneys and Public Defenders are elected at the general election by the qualified electors of their respective judicial circuits and serve a 4-year term.

State law<sup>4</sup> established a CCRC within the northern, middle, and southern regions of the State, and prescribed the specific judicial circuits within each region. The Governor appoints each Capital Collateral Regional Counsel, subject to confirmation by the Senate, for a 3-year term.

In addition, State law<sup>5</sup> established an RC within the geographic boundaries of each of the five district courts of appeal. The Governor appoints each Criminal Conflict and Civil Regional Counsel, subject to confirmation by the Senate, for a 4-year term.

## FINDINGS AND RECOMMENDATIONS

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### GENERAL MANAGEMENT CONTROLS

Given the various statutory and regulatory requirements the judicial agencies must comply with, it is important that judicial agencies establish administrative management policies and procedures. Such

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<sup>1</sup> Section 43.16, Florida Statutes.

<sup>2</sup> Section 39.8296(2), Florida Statutes.

<sup>3</sup> Sections 27.01 and 27.50, Florida Statutes.

<sup>4</sup> Section 27.701, Florida Statutes.

<sup>5</sup> Section 27.511, Florida Statutes.



policies and procedures should be designed to effectively promote and monitor compliance with the statutory and regulatory requirements and to demonstrate accountability for the use of public resources.

### **Finding 1: Business Office Management System**

The Business Office Management System (BOMS) is an automated system composed of several modules such as accounting, human resources, reporting, and financial management. BOMS originated in the mid-1980's and a vendor maintains the system. During the period July 2015 through December 2016, the JAC, 18 SAs, 18 PDs, the five RCs, the three CCRCs, and the GAL used BOMS in some manner. Of the ten judicial agencies included in the scope of this audit, all but the PD3 used BOMS during this period.

The judicial agencies entered into annual maintenance contracts with the vendor that provided for the continued support and update of BOMS. Table 1 shows the BOMS annual maintenance fees for the 2015-16 and 2016-17 fiscal years.

**Table 1**  
**BOMS Annual Maintenance Fees**

	Fiscal Year 2015-16	Fiscal Year 2016-17
Justice Administrative Commission	\$ 12,600	\$ 12,600
Statewide Guardian ad Litem Program	12,600	12,600
Offices of the Capital Collateral Regional Counsel	31,500	47,250
Offices of the Criminal Conflict and Civil Regional Counsel	63,000	72,450
Offices of the State Attorney	261,450	261,450
Offices of the Public Defender	274,050	270,900
<b>Total</b>	<b><u>\$655,200</u></b>	<b><u>\$677,250</u></b>

Source: BOMS annual maintenance contracts.

According to the JAC Executive Director, BOMS was intended to allow the judicial agencies to transmit data and documents electronically to the JAC and automate accounting data transmissions to the State accounting system, Florida Accounting Information Resource Subsystem (FLAIR). Instead, however, the judicial agencies record accounting transactions in BOMS, transmit the supporting data and BOMS information by e-mail to the JAC, and the JAC audits the information and manually records the transactions in FLAIR.

In response to our inquiry, the JAC Executive Director indicated that, as of April 2019, no steps toward direct interface between BOMS and the new State accounting system<sup>6</sup> had been taken and the new State accounting system is many years away from being put into production. Notwithstanding this response and the JAC process that provides a method for ensuring that such transactions are accurately recorded in FLAIR, the dual recording of accounting transactions by the judicial agencies and the JAC results in a duplication of effort.

<sup>6</sup> The Florida Planning, Accounting, and Ledger Management (Florida PALM) will be replacing FLAIR as the State's accounting system.



Because availability of BOMS data is critical to the JAC and applicable judicial agencies' operations, it is essential that an effective business continuity and disaster recovery plan be maintained to help minimize data loss in the event of a BOMS major system failure. Management of the JAC and the other applicable judicial agencies indicated they had not developed a business continuity plan to mitigate the risk of system disruption nor a formal disaster recovery plan to protect from data loss, although they also indicated that the most recent BOMS data is adequately backed up off-site. JAC management believed that the JAC data retention policies combined with the vendor's agreement to maintain a copy of the system software in use at an off-site data storage facility ensured that the JAC would be able to continue to operate until the procurement of a replacement system. The management of the other judicial agencies indicated that they had business continuity disaster recovery plans, but the plans were not established in writing.

Developing and implementing written business continuity and disaster recovery plans would provide additional assurance that the JAC and other judicial agencies could continue critical operations, and maintain availability of BOMS data, in the event of a system failure. Such plans should address access to BOMS system source codes in the event the vendor is unable to provide support.

Similar findings addressing duplication of accounting efforts and lack of business continuity and disaster recovery plans were noted in our report Nos. 2015-061 and 2012-176.

**Recommendation: The JAC and the applicable judicial agencies should:**

- **Take appropriate steps to ensure that, upon implementation of the new State accounting system, duplication of accounting efforts is limited and BOMS maintenance expenses are reduced.**
- **Establish business continuity and disaster recovery plans.**

## **Finding 2: Internal Audit Function**

An internal audit function can provide additional assurance that internal controls are designed properly and operating effectively, and can promote compliance with applicable laws, contracts, and established policies and procedures. The Government Finance Officers Association (GFOA) recommends governments consider establishing an internal audit function to assist management in monitoring the design and proper functioning of internal control policies and procedures, provide an additional level of control and help to improve government's overall control environment, and play a valuable role in conducting performance audits, special investigations, and studies.<sup>7</sup>

State agencies, including the State Courts System (SCS), are required to establish an internal audit function pursuant to State law.<sup>8</sup> Although, pursuant to the General Appropriations Act,<sup>9</sup> the JAC and the other judicial agencies had expenditure authority in the aggregate of \$889,702,167 for the 2016-17 fiscal year (\$365,686,283 or 70 percent more than SCS expenditure authority for the 2016-17 fiscal year), those entities are not required by State law to establish an internal audit function. Such a function would be

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<sup>7</sup> GFOA publication titled *Internal Audit Function*.

<sup>8</sup> Section 20.055, Florida Statutes.

<sup>9</sup> Chapter 2016-66, Laws of Florida.



beneficial considering the expenditure authority and internal control deficiencies discussed in this report. Similar findings were noted in our report Nos. 2015-061 and 2012-176.

**Recommendation:** We recommend that the Legislature consider whether the JAC and the other judicial agencies should employ, or otherwise provide for, an internal auditor with the qualifications and duties prescribed in State law for State agency directors of auditing. We also recommend that the JAC consider requesting the necessary positions and funding from the Legislature to implement an internal audit function.

### **Finding 3: Policies and Procedures**

Policies and procedures, which clearly define the responsibilities of employees, are essential to provide both management and employees with guidelines for the effective, efficient, and consistent conduct of business and the effective safeguarding of assets. In addition, policies and procedures should address administrative issues, such as e-mails; travel; motor vehicles and fuel cards; safety; attire; and other matters relevant to an entity's operations.

Our audit disclosed that several judicial agencies had not established comprehensive policies and procedures during the period July 2015 through December 2016. For example:

- The PD3 Administrative Director indicated that the PD3 had not established comprehensive policies and procedures. PD3 had a small number of personnel and the Administrative Director was significantly involved in operational workflows. Given management's involvement and the ease of communication that comes with a small number of personnel, PD3 did not deem it necessary to establish formal policies and procedures.
- The GAL Budget Director, SA2 Executive Director, PD4 Administrative Director, RC3 Administrative Director, RC4 Administrative Director, and RC5 Administrative Director indicated that their agencies had not established policies and procedures for conducting an annual physical inventory of tangible personal property (TPP) or for maintaining the related records. The SA2 Executive Director and PD4 Administrative Director indicated that such policies and procedures had since been established, while the RC4 and RC5 Administrative Directors indicated that RC4 and RC5 had implemented procedures for conducting the annual physical inventory of TPP, but the procedures had not been established in writing.
- The SA2 Executive Director, PD4 Administrative Director, RC3 Administrative Director, RC4 Administrative Director, and RC5 Administrative Director indicated that their agencies had not established policies and procedures requiring documented verification that new hires met the minimum education or work experience requirements for positions for which they were hired. The SA2 Executive Director indicated that such policies and procedures had since been established, while the PD4, RC4, and RC5 Administrative Directors indicated that PD4, RC4, and RC5 had implemented procedures for verifying education and work experience requirements for new hires, but the procedures had not been established in writing.
- The PD4 Administrative Director, RC2 Finance and Accounting Director, and RC3 Administrative Director indicated that their agencies had not established policies and procedures for procurement of contractual services. The PD4 Administrative Director and RC2 Finance and Accounting Director indicated that policies and procedures had not been established because they use State procurement guidelines.
- The CCRC-N Administrative Services Director indicated that the CCRC-N had not established comprehensive written policies and procedures because the CCRC-N was a relatively new agency. The CCRC-N began operating in January 2014 and, as of the time of our inquiry in



September 2017, had implemented a classification and pay plan and issued guidance on some travel and personnel issues, primarily in the form of e-mails and memos. However, the CCRC-N had not established policies and procedures addressing other administrative issues such as procurement, property control, and payroll processing.

Policies and procedures, if properly designed, communicated to employees in writing, and effectively placed into operation, provide management additional assurance that activities are conducted in accordance with applicable laws and other guidelines, and serve as a training tool for new employees. In the absence of established comprehensive policies and procedures, there is an increased risk of instances of noncompliance or internal control deficiencies such as those noted in this report.

**Recommendation:** The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N should establish and implement comprehensive policies and procedures.

#### **Follow-Up to Management Responses**

*The responses from RC4 and RC5 management indicated that they had established policies and procedures for conducting an annual physical inventory of tangible personal property and for verifying that new hires met the relevant minimum education and work experience requirements. Notwithstanding these responses, although we requested, RC4 and RC5 records were not provided to evidence that such policies and procedures had been established. Consequently, the finding and related recommendation stand as presented.*

#### **Finding 4: Anti-Fraud Policies and Procedures**

Appropriate policies and procedures for communicating, investigating, and reporting known or suspected fraud are essential to aid in the mitigation, detection, and prevention of fraud. Such policies and procedures serve to establish the responsibilities for investigating potential incidents of fraud and taking appropriate actions, reporting evidence of such investigations and actions to the appropriate authorities, and protecting the reputations of persons suspected but not determined guilty of fraud.

The judicial agencies included in the scope of this audit had established anti-fraud policies and procedures. While these policies and procedures had many positive features, the policies and procedures did not explicitly provide for incident reporting procedures that allow individuals to anonymously report policy violations and known or suspected fraud. In response to our inquiry, PD3 personnel indicated that people accused of wrongdoing are entitled to know who has accused them. However, the other judicial agencies did not provide a specific reason why the anti-fraud policies and procedures did not provide for anonymous reporting. While JAC and GAL personnel indicated that their agencies had methods that provided for anonymous reporting, they also indicated that consideration would be given to amending anti-fraud policies and procedures to explicitly address such reporting. Anti-fraud policies and procedures that allow for anonymity encourage persons to report policy violations and known or suspected fraud.

**Recommendation:** The JAC and the other judicial agencies should enhance their anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.



## Finding 5: Direct-Support Organization

State law<sup>10</sup> authorizes the GAL to create a direct-support organization (DSO) to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the GAL. State law<sup>11</sup> also provides that the Executive Director of the GAL must appoint the DSO Board of Directors (Board).

The GAL created a DSO, the Florida Guardian Ad Litem Foundation (Foundation) and, pursuant to State law,<sup>12</sup> the Foundation is required to operate under a written contract with the GAL. The contract must provide for:

- The approval of the Foundation's articles of incorporation and bylaws.
- Submittal of the Foundation's annual budget for approval by the Executive Director of the GAL.
- The reversion of all the Foundation's money and property held in trust to the GAL if the Foundation ceases to exist.
- The Foundation's fiscal year.
- The disclosure of material provisions of the contract, and the distinction between the GAL and the Foundation, to donors of gifts, contributions, or bequests and on promotional and fundraising publications.

Although we requested, GAL records were not provided to evidence the 2015-16 fiscal year contract with the Foundation. In response to our inquiry, the GAL Administrative Services Director (ASD) indicated that in 2014, the Foundation Chief Executive Officer (CEO) and the majority of the Foundation Board members resigned, retaining only one Board member (the Treasurer); the Foundation became administratively inactive and performed only the functions pertaining to fiscal management, recurring bill payment, and other previously obligated duties. Due to the Foundation inactivity, the GAL and the Foundation contract lapsed, and the entities have existed without a written contract since July 2015. The ASD also indicated that in September 2016, the GAL hired a part-time CEO for the Foundation; in October 2016, the CEO became full-time, paid directly from GAL funds; and the CEO and the GAL's Executive Director have taken measures to revitalize the Foundation Board.

Without an executed written contract, there is an increased risk that the Foundation may not operate in the manner provided for in State law. Subsequent to our inquiry, the GAL and the Foundation executed a contract effective July 1, 2017.

**Recommendation: The GAL should continue efforts to ensure that a written contract with the Foundation is maintained in accordance with State law.**

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<sup>10</sup> Section 39.8298(1), Florida Statutes.

<sup>11</sup> Section 39.8298(3), Florida Statutes.

<sup>12</sup> Section 39.8298(2), Florida Statutes.



## Finding 6: Separation of Duties

Management is responsible for establishing a system of internal control to ensure, among other things, that records and reports are reliable, and assets are safeguarded. Effective internal control provides for a separation of incompatible duties so that no one employee has control over all or most of the phases of the disbursement, payroll, or inventory processes. If, because of the limited number of staff the separation of incompatible duties is not practical, compensating controls, such as supervisor-documented comparisons of historical and current disbursement trends, observations of inventory items, and evaluations of the reasonableness of disbursements and inventory based on the comparisons and observations, should be implemented.

Our inquiry and examination of records at the selected judicial agencies for the period July 2015 through December 2016 disclosed that:

- Due to the limited number of PD3 employees, the PD3 Administrative Director had the incompatible duties of making purchases, receiving goods, reconciling goods received to invoices, and authorizing the invoices for payment. According to PD3 personnel, the invoices and transmittal control documents (batch sheets) were submitted to the JAC. The JAC recorded the batch sheet information in FLAIR and, if applicable, made payments by State warrant or electronic funds transfer. PD3 personnel indicated that the PD3 Administrative Director prepared batch sheets, recorded them on the batch sheet control log, and submitted the batch sheets (with invoices attached) and the batch control log to the Public Defender for review and approval. However, the Administrative Director had custody of, and was responsible for updating, the control log and there was no independent reconciliation of batch sheets used to batch sheets shown on the control log, negating the usefulness of this procedure as a compensating control.
- Judicial agencies create personnel action request (PAR) forms for position changes (e.g., new hires, terminations, promotions), changes in employee salary rate or benefits, and other personnel actions and submit the forms to JAC personnel to record in the State Payroll System. Monthly, JAC personnel provided payroll summary reports to the judicial agencies for verification or the judicial agencies reviewed the reports online through FLAIR.

Our examination of judicial agency records and discussions with judicial agency personnel disclosed that the RC2 Administrative Director had the incompatible duties of creating and approving PAR forms and reconciling monthly payroll information to the payroll records. According to RC2 personnel, the RC2 Regional Counsel reviewed and approved the PAR forms; however, such review and approval was not documented in the respective personnel files.

- Certain employees had the incompatible duties of accessing property items and updating property records. Specifically:
  - The former SA2 Executive Director, who was the custodian delegate during the period July 2015 through December 2016,<sup>13</sup> had such incompatible duties and the only independent physical inventory was for the property items located in the Leon County office. In response to our inquiry, the SA2 Executive Director who replaced the previous Director indicated that the physical inventory was not delegated to other SA2 personnel because the former Executive Director wanted to personally ensure the completeness of the property record for the incoming administration. Subsequent to our inquiry, in October 2017 the SA2 implemented procedures that require individuals other than the custodian delegate to perform an annual physical inventory of all property items.

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<sup>13</sup> Custodian delegate is the person to whom the elected official delegates custody and control of property.



- Due to the limited number of CCRC-N employees, the CCRC-N Office Staff Assistant, who was the custodian delegate, also had such incompatible duties, and there was no independent physical inventory of the property items.

Our audit procedures did not disclose any errors or fraud associated with these control deficiencies; however, given the inadequate separation of duties and lack of compensating controls, there is an increased risk that errors or fraud could occur and not be timely detected. Similar findings were noted in our report Nos. 2015-061 and 2012-176.

**Recommendation:** The PD3, RC2, SA2, and CCRC-N should provide for an adequate separation of duties to the extent possible with existing personnel or implement compensating controls.

## Finding 7: Reporting Requirements

State law<sup>14</sup> requires the JAC to separately track expenditures and performance measures for private court-appointed counsel for each of the categories of criminal or civil cases in which private counsel may be appointed. Annually, the JAC is required to prepare a Statewide report comparing performance measures for each of the judicial circuits and issue that report to the Governor, the Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives. In addition, the JAC is required to quarterly provide to the same officials a report comparing actual year-to-date expenditures to budget amounts for each of the judicial circuits.

From July 2015 through December 2016, the JAC provided the six required quarterly reports to all the statutorily required officials; however, the annual report for the 2015-16 fiscal year was provided only to the JAC Commissioners and the Legislative committees and subcommittees. According to the JAC Public Records Coordinator, the annual report was not submitted to the Governor, Chief Justice of the Supreme Court, President of the Senate, or Speaker of the House of Representatives due to an inadvertent alteration to the report distribution list. The Public Records Coordinator indicated that the distribution list has been updated to include the required officials.

Additionally, State law<sup>15</sup> requires each of the CCRCs to provide a quarterly report to the President of the Senate and the Speaker of the House of Representatives detailing the number of hours worked by investigators and legal counsel per case and the amounts expended per case during the preceding quarter in investigating and litigating capital collateral cases. In response to our inquiries regarding submittal of the required reports, the CCRC-N indicated that the reports had only been provided upon request. As of the time of inquiry in September 2017, the CCRC-N had provided no quarterly reports to the Speaker of the House of Representatives and only two quarterly reports to the President of the Senate for the 2016-17 fiscal year since the CCRC-N began operations in January 2014.

The submission of periodic reports presenting performance information is a critical tool for measuring efficiency, identifying best practices, developing benchmarks, and creating future budgets. In the absence of such reports, government officials with oversight responsibility over JAC and CCRC-N operations cannot make the most informed decisions concerning the budget and allocation of resources.

<sup>14</sup> Section 27.405(2), Florida Statutes.

<sup>15</sup> Section 27.702(4)(b), Florida Statutes.



**Recommendation: The JAC and CCRC-N should enhance procedures to ensure that the specified reports are timely provided to the appropriate officials as required by State law.**

## TANGIBLE PERSONAL PROPERTY

Pursuant to Department of Financial Services (DFS) rules,<sup>16</sup> judicial agencies are required to record for inventory purposes all TPP<sup>17</sup> with a value or cost of \$1,000 or more and a projected useful life of 1 year or more. Judicial agencies are responsible for maintaining complete and accurate records of TPP and establishing adequate internal controls over the acquisition and disposal of that property.

### **Finding 8: Annual Physical Tangible Personal Property Inventory and Records**

To promote the proper accountability for and safeguarding of TPP, DFS rules<sup>18</sup> require judicial agencies to complete a physical inventory of all TPP at least once each fiscal year; records of the inventory to include detailed information<sup>19</sup> for each TPP item; and upon completion of a physical inventory, the information from the inventory be compared to the individual property records and noted differences investigated and corrected in the property records, as appropriate.

To determine whether the ten judicial agencies included in the scope of this audit appropriately conducted and reconciled the results of annual physical inventories, and that the record of the inventories contained the required information, we examined entity records related to the 2015-16 fiscal year inventory. Our examination of records related to the agencies' 2015-16 fiscal year inventories disclosed that some of the agencies did not always timely conduct a complete physical inventory of TPP or maintain, for the physical inventories conducted, all the information required by DFS rules. Specifically, we found that:

- SA2, PD3, and RC3 did not retain or provide upon our request evidence that a physical inventory of TPP was conducted.
- GAL physical inventory records did not always include the property item identification number.
- PD4, RC2, CCRC-N physical inventory records did not include the condition of the TPP items at the date of inventory.
- RC4, RC5 and CCRC-N physical inventory records did not always include the custodian, or the custodian's delegate, with assigned responsibility for the TPP items.
- RC4 and CCRC-N physical inventory records did not include the physical location of the TPP items.
- GAL and RC2 physical inventory records did not always include the manufacturers' serial numbers, where applicable.
- GAL and RC2 physical inventory records did not include the acquisition date of the TPP items.
- RC2 and RC5 physical inventory records did not include the State class code.

<sup>16</sup> DFS Rule 69I-72.002, Florida Administrative Code.

<sup>17</sup> TPP is defined in applicable laws and rules as State-owned equipment, fixtures, and other TPP of a nonconsumable or nonexpendable nature.

<sup>18</sup> DFS Rule 69I-72.006, Florida Administrative Code.

<sup>19</sup> The detailed property item information is to include, for example, the property item identification number, date acquired, cost or value at acquisition, description, physical location, name of custodian or custodian's delegate, class code, serial number (if applicable), and date last physically inventoried and condition as of that date.



As discussed in Finding 3, during the period July 2015 through December 2016, many of these agencies had not established policies and procedures for conducting the required annual TPP physical inventory and maintaining the related records. Periodic physical inventories of TPP and accurate updates of all applicable property record fields are necessary to ensure proper accountability for and safeguarding of TPP. A similar finding was noted in our report No. 2015-061.

**Recommendation:** Judicial agencies should ensure that complete physical inventories of TPP are timely conducted and all required physical inventory information is maintained in accordance with DFS rules.

#### **Follow-Up to Management Response**

*The RC4 management response indicated that the custodian or the custodian's delegate with assigned responsibility for TPP items greater than \$1,000 in value was always included in the TPP inventory records. Notwithstanding this response, the RC4 TPP inventory records provided for our examination did not include that information for several TPP items costing more than \$1,000. Consequently, we continue to recommend that all required physical inventory information be maintained in accordance with DFS rules.*

### **Finding 9: Tangible Personal Property Records**

DFS rules<sup>20</sup> specify that, for each TPP item, property records are to include, among other things, an identification number; description; physical location; the name of the custodian or custodian's delegate; class code; name, make, or manufacturer, if applicable; serial number, if any; the date the item was acquired; the acquisition cost and method of acquisition (including the Statewide document number); the date the item was last physically inventoried and the condition of the item on that date; and, if certified as surplus or disposed of, other information required by State law and DFS rules.<sup>21</sup>

Our examination of the property records for the ten judicial agencies included in the scope of this audit disclosed that the records for nine of the agencies (all except the JAC) did not include the method of acquisition, including the Statewide document number. Additionally, we found that due to oversight:

- GAL, RC3, and RC4 property records did not include an identification number for each TPP item.
- RC3 property records did not include a description for each TPP item.
- RC3 and CCRC-N property records did not include a physical location for each TPP item.
- PD3, RC3, RC5, and CCRC-N property records did not always include the name of the custodian, or custodian's delegate, for each TPP item.
- PD3, RC2, RC3, and RC5 property records did not include the State class code.
- RC2 and RC3 property records did not include the name, make, or manufacturer for each property item.
- GAL and RC3 property records did not always include the manufacturer's serial number for each property item, where applicable.

<sup>20</sup> DFS Rule 69I-72.003, Florida Administrative Code.

<sup>21</sup> Section 273.05(5), Florida Statutes, and DFS Rule 69I-72.005, Florida Administrative Code.



- GAL, RC3, and RC4 property records did not always include the acquisition date or the cost at acquisition for each property item.
- PD3, RC3, RC4, and RC5 property records did not always include the date of the most recent inventory for each item.
- RC3 and RC4 property records did not always include data pertaining to the surplus of TPP items, including the certification date, reason, and a reference to the supporting documentation.

In addition, RC3 did not assign TPP identification numbers to 33 of its 489 TPP items, and 66 distinct TPP items had identification numbers that were also assigned to other TPP items.

Maintaining detailed property records that include all required information is necessary to maintain proper accountability over property. A similar finding was noted in our report No. 2015-061.

**Recommendation:** Judicial agencies should ensure that property records include, for each TPP item, the information required by DFS rules and that property items are assigned distinct property numbers.

### Finding 10: Tangible Personal Property Disposals

Pursuant to State law,<sup>22</sup> each judicial agency custodian<sup>23</sup> must appoint one or more review boards to examine and make recommendations approving or disapproving the classification of agency property as surplus. Additionally, State law and DFS rules<sup>24</sup> require the property records for each item lawfully certified as surplus TPP to include the value and condition of the TPP, date of certification, reason for certification, and date of review board recommendation on certification. State law<sup>25</sup> also provides that certified surplus TPP not be sold, transferred, cannibalized, scrapped, warehoused, or destroyed without prior written authority from the custodian and requires the custodian to maintain records to identify each TPP as to disposition in accordance with rules issued by the State Chief Financial Officer. DFS rules<sup>26</sup> further require the property records for each TPP item lawfully disposed of to identify the date of disposition, authority for disposition, manner of disposition, identity of the employee witnessing the disposition (if cannibalized, scrapped, or destroyed), and a reference to documentation evidencing that such TPP was disposed of in the manner prescribed by State law.

We determined that 3 (SA2, PD3, RC5) of the ten judicial agencies included in the scope of this audit had not established a review board or procedures requiring that at least two individuals approve or disapprove the classification of agency TPP as surplus. The establishment of a review board in accordance with State law to examine and make recommendations approving or disapproving TPP items as surplus would assist management in controlling, safeguarding, and accounting for TPP.

To determine whether the ten judicial agencies included in the scope of this audit had appropriate controls over TPP disposals and maintained appropriate records, we inquired of agency personnel and examined records supporting selected TPP disposal transactions for the period July 2015 through December 2016.

<sup>22</sup> Section 273.05(2), Florida Statutes.

<sup>23</sup> Section 273.01(1), Florida Statutes, defines custodian as any elected or appointed State officer, board, commission, or authority, and any other person or agency entitled to lawful custody of property owned by the State.

<sup>24</sup> Section 273.05(5), Florida Statutes, and DFS Rule 69I-72.005(2), Florida Administrative Code.

<sup>25</sup> Section 273.055(1) and (2), Florida Statutes.

<sup>26</sup> DFS Rule 69I-72.005(5), Florida Administrative Code.



We found that some agencies did not always maintain documentation to evidence that a review board, or at least two individuals, had recommended and approved certifying TPP items as surplus prior to the items' disposal. Specifically:

- For the JAC, the Operations Management Consultant prepares a TPP transfer form, which is approved by the JAC Director of Operations and the JAC Executive Director, to donate or destroy the TPP. The JAC disposed of six TPP items with acquisition costs totaling \$37,512. For two items (a motion sensor checkpoint 32-bit controller costing \$5,813 and a checkpoint 32-bit controller costing \$1,193), there was no documentation evidencing prior certification of the items as surplus or justification for the items' disposal.
- For the PD4, the Information Technology Director or Director of Investigations must recommend, and the Public Defender approve, TPP dispositions. Once approved, the Administrative Director, or the Director's delegate, prepares an Inventory Surplus Memo and donates or destroys the applicable TPP items.

From the population of 132 disposed of TPP items with acquisition costs totaling \$100,542, we examined PD4 records supporting 34 selected items (including 9 handguns) with acquisition costs totaling \$21,611.<sup>27</sup> Our examination disclosed that PD4 records did not evidence proper prior authorization for 13 of the 34 items disposed of as:

- For 4 items (desktop computers with acquisition costs totaling \$5,836), there was no documentation evidencing prior certification of the items as surplus or justification for the items' disposal.
- PD4 records indicated that the 9 handguns, with acquisition costs totaling \$779, were donated to a nonprofit organization by the former PD4 Public Defender (who left office in January 2017); however, there was no documentation evidencing that two PD4 employees certified the handguns as surplus or providing justification for the disposal and donation of the handguns. The succeeding PD4 Public Defender, upon taking office in January 2017, recovered the donated handguns and included them in the PD4's TPP inventory.

We expanded our procedures by examining records supporting 10 additional computers, with acquisition costs totaling \$5,149, disposed of on January 1, 2017. PD4 records indicated that the computers were donated to a nonprofit organization by the former PD4 Public Defender; however, there was no documentation evidencing prior certification of the computers as surplus or justification for the disposal and donation of the computers. The succeeding Public Defender, upon taking office, recovered the computers; however, the hard drives had been removed and, therefore, the computers were determined by PD4 personnel to be unusable.

- For the RC3, the contracted inventory manager notifies the RC3 Administrative Director and Regional Counsel of TPP that needs to be surplus, the Regional Counsel approves the surplus designation, and the Administrative Director authorizes disposal of the TPP. The contracted inventory manager provides a receipt upon donation or destruction. However, for 49 of 92 disposed TPP items, RC3 did not maintain documentation evidencing prior certification of the items as surplus or justification for the disposal of the items.

The lack of appropriately established policies and procedures governing TPP contributed to the noncompliance and control deficiencies. The use of proper documentation to evidence appropriate and prior authorization of TPP dispositions assists in maintaining accountability for TPP and demonstrates compliance with applicable DFS rules and prescribed agency procedures. Absent such documentation,

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<sup>27</sup> The 9 handguns were disposed of in December 2016 and the other 25 items were selected from the population of all TPP items disposed of during the period July 2015 through December 2016.



there is reduced assurance over the accuracy of property records and an increased risk of loss, theft, or misuse of TPP.

**Recommendation:** The SA2, PD3, and RC5 should establish a review board to examine and make recommendations regarding surplus TPP. The JAC, PD4, and RC3 should enhance controls to ensure authorization for TPP disposals is properly obtained and documented in accordance with DFS rules and prescribed agency procedures.

#### **Finding 11: Accountability for Property Items Valued or Costing Less Than \$1,000**

DFS rules<sup>28</sup> establish accountability requirements for TPP with a value or cost of \$1,000 or more and a useful life extending beyond one year. Such accountability includes maintaining complete and accurate records and establishing adequate internal controls over the acquisition and disposal of TPP items. Pursuant to GFOA guidelines,<sup>29</sup> governmental entities should ensure that adequate control is maintained over property items with a value or cost of less than \$1,000 when those items require special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.

Of the ten judicial agencies included in the scope of this audit, all but RC2 maintained records for property items valued or costing less \$1,000. In response to our inquiry, an RC2 Assistant Regional Counsel indicated that RC2 maintains records of TPP as required by State law but determined that maintaining records of property items valued or costing less \$1,000 was not an effective use of man-hours. Although we requested, RC2 personnel did not provide records evidencing this determination or whether any RC2 property items valued or costing less \$1,000 required special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.

By nature of their portability and adaptability for personal use, some property items such as firearms, computers, and electronic equipment are more susceptible to loss or theft. Maintaining adequate internal controls over such items, including detailed property records, would decrease the risk of such items being lost, stolen, or inappropriately used.

**Recommendation:** The RC2 should identify property items that are not recorded in the property records, make a documented determination of whether any those items require special attention as contemplated by GFOA guidelines, and maintain accountability for such items in a manner consistent with DFS rules.

#### **Finding 12: Motor Vehicle Records**

Department of Management Services (DMS) rules<sup>30</sup> require the Division of Motor Pool (Division) to develop, maintain, and operate an equipment management information system to meet the reporting needs of the State's motor vehicles. The equipment management information system is referred to as Florida Equipment Electronic Tracking (FLEET). FLEET is required to include the condition, utilization, cost, fuel consumption, maintenance, and assignment of motor vehicles owned, leased, or operated by

<sup>28</sup> DFS Rule 69I-72, Florida Administrative Code.

<sup>29</sup> GFOA publication titled *Control Over Items That Are Not Capitalized*.

<sup>30</sup> DMS Rule 60B-1.010, Florida Administrative Code.



agencies, and this information is input into FLEET from Division-approved forms provided by the agencies to the Division each month. Of the ten judicial agencies included in the scope of this audit, only SA2, PD3, and PD4 used State motor vehicles, and those agencies had developed and implemented daily vehicle usage logs to record information required for FLEET. The logs also provide a record of management's oversight of vehicle use to ensure that personal use is within established limits and can be used to monitor costs associated with fuel and maintenance.

As of December 2016, the SA2, PD3, and PD4 owned 37, 4, and 12 motor vehicles, respectively. To determine the effectiveness of these judicial agencies' motor vehicle usage controls, we evaluated motor vehicle usage policies and procedures and examined selected vehicle usage logs for each of these three agencies. We found that:

- The PD3 vehicle usage logs for the 18-month period July 2015 through December 2016 did not always include complete information. For example, the vehicle usage logs for all 4 vehicles did not provide a reason for the vehicle's use and several fuel purchases reported on vehicle usage logs were not supported by receipts or other documentation evidencing the actual quantity of fuel purchased. Also, the vehicle usage log for 1 vehicle did not indicate the name of the assigned driver for 15 of the 18 months. The PD3 Administrative Director indicated that vehicle usage logs were not designed to show the reason for the vehicle's use, some fuel receipts had been lost, and the vehicle usage logs lacking the name of the assigned driver were for the Public Defender's personally assigned vehicle.
- The PD4 did not maintain vehicle usage logs for 6 of the 12 vehicles used, including 2 vehicles driven by the PD4 Public Defender, a vehicle driven by the Chief Assistant Public Defender, and 3 vehicles driven by PD4 Investigators. The PD4 maintained vehicle usage logs for the other 6 vehicles; however, our examination of the log form disclosed that the log did not provide for the reason for the vehicle's use or the times of departure and arrival.

Vehicle operations and maintenance records, and periodic review of such records, assist in vehicle repair and replacement decision making. Absent sufficient trip details on vehicle usage records, there is an increased risk that State vehicles may be used for unauthorized purposes.

**Recommendation:** The PD3 and PD4 should ensure, for all motor vehicles, that vehicle usage records include sufficient details, including the purpose and departure and arrival times for each use. In addition, the PD3 should ensure that fuel costs are supported by appropriate documentation.

## PERSONNEL AND PAYROLL

Effective payroll policies and procedures establish controls to ensure payroll transactions are handled accurately and consistently in accordance with applicable laws, rules, regulations, and management directives. Effective personnel administration policies and procedures communicate management's expectations, employment guidelines, and benefit information to employees and promote the uniform treatment and administration of personnel employed by the judicial agencies.

### Finding 13: Position Descriptions

Effective employment procedures necessitate use of position descriptions that specify minimum education and work experience requirements. Such position descriptions provide employees a clear understanding of management's expectations, establish benchmarks for evaluations and advancement,



and help protect against hiring inequities. Classification and pay plans and related procedures for the ten judicial agencies included in the scope of this audit required the establishment of position descriptions specifying the position's responsibilities and the education and work experience requirements.

Our examination of agency personnel records and discussions with agency personnel disclosed that controls over position descriptions could be improved as: Florida Public Defender Association (FPDA) Classification and Pay Procedures and Florida Prosecuting Attorneys Association (FPAA) Classification and Pay Plan

- The SA2, PD3, PD4, RC2, RC3, RC4, and RC5 had not developed position descriptions for Assistant State Attorney (ASA), Assistant Public Defender (APD), and Assistant Regional Counsel (ARC) positions, as applicable. ASAs, APDs, and ARCs are key personnel who, during the 2015-16 fiscal year, represented approximately 53 percent of the combined total number of employees and received 63 percent of these agencies' combined total annual salaries. In response to our inquiries, SA2 personnel indicated that position descriptions were not established for ASAs because ASAs are appointed pursuant to State law and their duties are established by law, while RC2 personnel indicated that ARCs are regulated by the State Bar Association. However, the provisions in State law and activities of the State Bar Association cannot substitute for management's responsibility to establish position descriptions in accordance with classification and pay plans.
- The JAC had developed position descriptions for all authorized salaried positions; however, the position descriptions did not specify education or work experience requirements. In response to our inquiry, JAC personnel indicated that applicant qualifications are readily apparent from resumes and cover letters. They also indicated that, in some cases, a degree is not indicative that an individual is qualified for a position as practical work experience can occasionally substitute for an academic degree. While we agree that resumes and cover letters may convey an applicant's level of education and work experience, which can be useful in evaluating qualifications, specifying education and work experience in position descriptions establishes the minimum qualifications required for a position and provides a transparent means of determining whether the applicant's level of education and work experience meets or exceeds management's expectations.

Absent position descriptions specifying minimum education and work experience requirements, there is an increased risk that the qualifications of applicants will not be consistently evaluated during the hiring process and employees may not be suitable or qualified for their respective positions.

**Recommendation:** The judicial agencies should develop position descriptions for all positions included in their classification and pay plans. Each position description should describe, at a minimum, the responsibilities to be performed and educational and work experience required.

#### **Finding 14: Verification of New Employees' Education and Work Experience**

Effective employment practices include documented verification of education and work experience requirements prior to offering employment to new employees or transferring employees to new positions. As discussed in Finding 13, all but one of the ten judicial agencies included in the scope of this audit established position descriptions specifying minimum education and work experience requirements for at least some of those agencies' available positions.

The judicial agencies with established position descriptions typically used those descriptions for advertising job openings and as a basis for determining whether applicants were qualified for the



positions. We examined the personnel files for 146 new employees hired during the period July 2015 through December 2016 by the ten judicial agencies. Position descriptions specifying education and work experience requirements had been established for 77 of the 146 positions filled by the new hires. Our examination of the personnel files for the 77 new hires and discussions with agency personnel disclosed that education verifications were undocumented for 20 new hires employed at 4 judicial agencies, as shown in Table 2, and work experience verifications were undocumented for 25 new hires employed at 5 of the judicial agencies, as shown in Table 3.

**Table 2**  
**Education Verifications Undocumented**

Judicial Agency	Number of	
	Personnel Files Examined	Education Verifications Undocumented
Office of the Public Defender, Third Judicial Circuit	2	2
Office of the Capital Collateral Regional Counsel, Third Region	5	2
Office of the Capital Collateral Regional Counsel, Fourth Region	9	9
Office of the Criminal Conflict and Civil Regional Counsel, Northern Region	11	7
<b>Total</b>	<b><u>27</u></b>	<b><u>20</u></b>

Source: Agency records

**Table 3**  
**Work Experience Verifications Undocumented**

Judicial Agency	Number of	
	Personnel Files Examined	Work Experience Verifications Undocumented
Statewide Guardian ad Litem Office	30	1
Office of the Public Defender, Third Judicial Circuit	2	2
Office of the Capital Collateral Regional Counsel, Third Region	5	2
Office of the Capital Collateral Regional Counsel, Fourth Region	9	9
Office of the Criminal Conflict and Civil Regional Counsel, Northern Region	11	11
<b>Total</b>	<b><u>57</u></b>	<b><u>25</u></b>

Source: Agency records

In response to our inquiries, personnel at some of the agencies stated that verification of education and work experience was performed but not documented.

As discussed in Finding 3, many of the agencies included in the scope of this audit had not established policies and procedures requiring documented verification that new hires met the minimum education or



work experience requirements for their jobs. The lack of such policies and procedures may have contributed to the undocumented education and work experience verifications. Documented verifications of individuals' education credentials and prior work experience would provide critical information for making personnel decisions and assurances that employees transferred to new positions or individuals selected for hire meet position requirements. A similar finding was noted in our report No. 2015-061.

**Recommendation: The judicial agencies should establish procedures for verifying and documenting in the personnel records that, prior to hire, applicants meet the minimum experience and educational requirements of the applicable positions.**

#### **Finding 15: Compensatory Time and Administrative Leave**

The PD4 operates pursuant to the *Classification and Pay Procedures* promulgated by the Florida Public Defender Association. *Classification and Pay Procedures*<sup>31</sup> applicable to public defenders define overtime as work performed beyond the established 40-hour workweek in accordance with the Fair Labor Standards Act and provides that no overtime work will be granted unless the proper authority within the agency has approved it beforehand. The *Classification and Pay Procedures*<sup>32</sup> further provide that all overtime worked by an employee who is filling an "included" (non-exempt) position shall either be paid at one and one-half times the employee's base rate of pay or by the time-off plan as established by the Fair Labor Standards Act, while an employee who is filling an "excluded" (exempt) position may be granted regular compensatory leave credits (i.e., earn compensatory time) on an hour-for-hour basis for all hours required to be worked in excess of the normal workweek. The overtime guidance and language in PD4's policies and procedures<sup>33</sup> was consistent with the *Classification and Pay Procedures* overtime provisions.

The *Classification and Pay Procedures*<sup>34</sup> provide for public defender employees to be awarded administrative leave (i.e., approved leave with pay) under certain circumstances, such as to serve as a member of a jury panel, to vote when distance precludes the employee from voting outside of normal working hours, when there has been a death in the immediate family, to take certain examinations, or for other unusual circumstances. As administrative leave may not be accrued, there can be no payments for unused balances. The PD4 policies and procedures are generally consistent with the *Classification and Pay Procedures* but also allow administrative leave to be granted for time spent by employees related to certain military related training and service, and making blood donations.

Effective January 2012, a nonprofit organization was incorporated to provide services to local youth with the intent of preventing and reducing the incidence of juvenile delinquency, crime, and other behavioral problems. During the period July 2015 through December 2016, the nonprofit organization's registered agent was the former PD4 Public Defender and the organization's five registered officers were all PD4 employees.

Fundraisers, charitable events, and donations support the nonprofit organization and are used to pay operating costs and to host and sponsor community outreach events. According to PD4 records, PD4

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<sup>31</sup> Florida Public Defender Classification and Pay Procedures, Section 3.05(1).

<sup>32</sup> Florida Public Defender Classification and Pay Procedures, Section 3.05(3).

<sup>33</sup> Office of the Public Defender, Fourth Judicial Circuit, Manual of Office Procedures, Chapter 3.

<sup>34</sup> Florida Public Defender Classification and Pay Procedures, Section 3.10.



employees were approved to earn compensatory time or receive paid administrative leave for time spent on activities for the nonprofit organization. For example:

- During the period July 2015 through September 2016, the former PD4 Public Defender approved 371 hours of compensatory time for 6 employees to provide administrative support for the nonprofit organization or to volunteer at a summer camp hosted by the nonprofit organization. Based on the employees' pay rates at the time of approval, the awarded compensatory time was valued at \$8,634 (excluding benefits).
- During May 2016, the nonprofit organization provided volunteer services, for fundraising purposes, at two golf tournaments that occurred over 5 days. During those days, the former PD4 Public Defender approved 225.5 hours of paid administrative leave for 14 employees to volunteer and provide support services for the nonprofit organization. Based on the employees' pay rates at the time of approval, the administrative leave was valued at \$5,417. Notwithstanding the former PD4 Public Defender's approval, the purpose for the administrative leave is not one of the specific purposes prescribed in the *Classification and Pay Procedures* and the PD4 policies and procedures.

In response to our inquiry, PD4 personnel indicated that they were unable to find records that explained why the compensatory time and paid administrative leave used was approved or how the time spent by the PD4 employees on nonprofit organization-related activities primarily served a public purpose pursuant to State law.<sup>35</sup> As such, entity records did not demonstrate the propriety of compensating the PD4 employees for time spent on those activities.

**Recommendation: PD4 policies and procedures should be enhanced to specify that personnel are not permitted to earn compensatory time or be paid for administrative leave for volunteer activities that do not primarily serve a public purpose related to the duties of a public defender prescribed by State law.**

#### **Finding 16: Salary Increase Justifications**

The *Classification and Pay Procedures*<sup>36</sup> provide that merit salary increases may be granted to an employee at the Public Defender's discretion based upon accomplishments and performance of duties and responsibilities, and special pay increases may be provided if justification exists for such increases. Allowable conditions for a special pay increase include, but are not limited to, "reassignment, transfer, added duties and responsibilities, superior proficiency, education and training, competitive job offer, and internal pay relationships." The *Classification and Pay Procedures*<sup>37</sup> also provide that written performance evaluations are not required but may be performed at the Public Defender's discretion. The PD4 policies and procedures<sup>38</sup> elaborate on performance evaluations and provide that evaluations are to be performed on an annual basis, signed by the employee and supervisor, and maintained in the respective employee's personnel file.

The Public Defender position is a locally elected position and, pursuant to State law,<sup>39</sup> a Public Defender serves a 4-year term. The former PD4 Public Defender's term ended January 2, 2017, and as such the

<sup>35</sup> Section 27.51, Florida Statutes.

<sup>36</sup> Florida Public Defender Classification and Pay Procedures, Section 2.06.

<sup>37</sup> Florida Public Defender Classification and Pay Procedures, Section 2.19.

<sup>38</sup> Office of the Public Defender, Fourth Judicial Circuit, Manual of Office Procedures, Chapter 1.

<sup>39</sup> Section 27.50, Florida Statutes.



Public Defender was campaigning for reelection during 2016 until his defeat in the August 2016 primary election. After his primary defeat, but before his separation from office, the former PD4 Public Defender increased the salaries of 14 PD4 employees. Our examination of PD4 records disclosed that:

- The salary increases for the 14 employees ranged from 3 to 113 percent and, for the period September 2016 through December 2016, resulted in total additional payroll costs of \$64,991. Nine of the 14 employees resigned effective January 2, 2017, the last day of the former PD4 Public Defender's term in office, and 1 resigned effective January 3, 2017.
- One of the 9 employees who resigned effective January 2, 2017, received the salary increase because of a promotion to Chief Investigator. According to the PD4 Administrative Director, this promotion enabled the employee to achieve Senior Management status and, as a result, the employee was paid for a greater amount of unused accrued vacation leave and reimbursed for insurance premiums he paid for the months of September through November 2016. In total, the employee was paid \$2,139 more upon resignation than he would have been paid had he not achieved Senior Management status.

Although we requested, we were not provided performance evaluations or other PD4 records justifying the salary increases for these 14 employees. PD4 personnel indicated that the former PD4 Public Defender did not always document performance evaluations and, when evaluations were documented, they were not routinely maintained in the employee personnel files. In the absence of documented performance evaluations or other records supporting these salary increases, it was not apparent, of record, how the salary increases served a public purpose.

**Recommendation: The PD4 should ensure that all salary increases are supported by a documented performance evaluation, or other written justification, maintained in the applicable employee personnel file.**

### **Finding 17: Unpaid Debts to the State**

Under State law,<sup>40</sup> the Chief Financial Officer (CFO) is responsible for taking actions to compel any individual who is indebted or accountable to the State for any property, funds, or moneys to yield up such property or funds according to law or pay such moneys to the State or to any officer or agent of the State as may be appointed to receive the same. Such actions include causing to be instituted and prosecuted criminal or civil proceedings against such individual, according to law.

State law<sup>41</sup> provides that each judicial agency is responsible for exercising due diligence in securing full payment of all accounts receivable and other claims due to the State. After exhausting other lawful measures, unless exempted by agency request, delinquent accounts receivable are to be reported as directed by the DFS to a collection agent within 120 days after the due date.

Pursuant to State law,<sup>42</sup> each judicial agency on October 1 of each year must submit to the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer: (1) a detailed list and total of all accounts that were referred for collection and the status of such accounts; (2) a list and total of all delinquent accounts that were not referred to a collection agency, the reasons for not referring

<sup>40</sup> Section 17.04, Florida Statutes.

<sup>41</sup> Section 17.20(3), Florida Statutes.

<sup>42</sup> Section 17.20(4), Florida Statutes.



the accounts, and the actions taken to collect; and (3) a list of all accounts or claims that were written off during the prior fiscal year.

Our audit disclosed that the former PD4 Public Defender, at the time his term ended on January 2, 2017, had certain unpaid debts to the State, including:

- Florida Retirement System (FRS) – Investment Plan employee contributions. According to PD4 records, the former PD4 Public Defender elected to enroll in the FRS Investment Plan. On December 5, 2016, and again on January 19, 2017, the DFS notified the former PD4 Public Defender that due to a miscalculation of the Federal maximum retirement contribution limit in the State payroll system, the employee and employer contributions to the former PD4 Public Defender's Investment Plan account were underpaid during the pay periods from October 2014 through December 2014 and from September 2015 through December 2015. Although the DMS Division of Retirement funded the deficit from the FRS Trust Fund, the DFS requested that the former PD4 Public Defender reimburse the State the amount of the underpaid employee contributions, which totaled \$2,204.
- Unpaid fuel costs related to personal use of assigned vehicles. Pursuant to United States Treasury (Treasury) regulations,<sup>43</sup> the personal use of an employer-provided vehicle (e.g., driving the vehicle to and from the employee's residence) is a fringe benefit that must be included in the employee's gross income as compensation for services, unless the benefit is paid by, or on behalf of, the employee or the benefit is otherwise excluded by another provision of the Internal Revenue Code.

The PD4 provides vehicles on a full-time (24-hour) basis to certain employees. For those employees, the PD4 is required to calculate the amount to include in gross income by using the fair market value (FMV) of the employer-provided vehicles to establish the annual lease value (ALV) as set forth in the Treasury regulations. The ALV does not include the value of fuel provided by the employer. Accordingly, the value of the fuel associated with the employees' personal use of the vehicles must be included in the employees' wages separately, unless the employees pay for the fuel. Since the PD4 pays for the fuel and the value of the fuel associated with personal use of the vehicles is not included in those employees' wages, those employees are required to reimburse the State for the value of the fuel associated with vehicle use that does not pertain to the performance of PD4 activities and prescribed duties.

Each November, each PD4 employee assigned a vehicle on a full-time basis during the preceding year completes and submits a self-reporting form<sup>44</sup> that reports the number of miles traveled for official business and the number of miles traveled for personal business. The reported number of personal use miles is multiplied at a rate of 5.5 cents per mile,<sup>45</sup> and the resulting total is the amount the employee reimburses the State for fuel costs. PD4 records indicate that, during the 2012-13 through 2015-16 fiscal years, the former PD4 Public Defender accumulated \$668 in unpaid fuel reimbursements due to the State.

- Accident-related vehicle repair costs. Under State law,<sup>46</sup> various insurance coverages, including general liability and automobile liability, are provided to judicial agencies through the State Risk Management Trust Fund. The Trust Fund provides automobile liability coverage for claims arising out of the ownership, maintenance, or use of vehicles by judicial employees acting within the course and scope of their employment or responsibilities.

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<sup>43</sup> Title 26, Section 1.61-21(b), Code of Federal Regulations.

<sup>44</sup> Vehicle Use – Non-cash Taxable Fringe Benefit Worksheet.

<sup>45</sup> Title 26, Section 1.61-21(d), Code of Federal Regulations, provides that the value of fuel may be 5.5 cents per mile driven by the employee.

<sup>46</sup> Chapter 284, Part II, Florida Statutes.



PD4 policies and procedures<sup>47</sup> require that PD4 personnel involved in an accident while driving a State-owned vehicle must notify the PD4 Director of Investigations and indicate whether or not the accident occurred while on State business. The DMS provided guidance<sup>48</sup> on the method of reporting accidents and the forms to be used. DMS requires, for accidents that may develop into a liability claim against the State, that form DFS-D0-261 (accident report) and a copy of the police report be filed with the DFS Division of Risk Management (DRM).

At noon on Sunday, June 12, 2016, the former PD4 Public Defender was involved in a traffic accident involving a State-owned vehicle and a parked personally owned vehicle, and an accident report was submitted to the DRM. According to the accident report, the accident occurred at a location that is approximately 7 miles from the PD4's Jacksonville office. The accident report indicated that the police were called, and no citation was issued; however, the accident report does not refer to a police report. In response to our inquiry, the PD4 Administrative Director indicated no police report regarding this accident was filed with the DRM.

The PD4 paid costs totaling \$2,370 to repair the personally-owned vehicle and to provide the vehicle owner a rental vehicle while repairs took place. As justification for paying such costs, the former PD4 Public Defender prepared memoranda indicating that he was on official State business at the time of the accident; however, neither the memoranda, accident report, or other documentation provided for our review, indicated the nature of the State business being conducted at the time of the accident or how the vehicle use related to public defender duties as prescribed by State law. In response to our inquiry, the PD4 Administrative Director indicated that the former PD4 Public Defender did not maintain time records.

Given the lack of documentation evidencing that the former PD4 Public Defender was conducting official State business at the time of the accident, and the lack of a police report contrary to DMS guidance, it was not apparent of record why the PD4, rather than the PD4 Public Defender or his personal insurer, paid the \$2,370 of costs related to the accident.

Subsequent to our inquiries, the PD4, on November 3, 2017, after conferring with the State Attorney General, issued a demand letter to the former PD4 Public Defender seeking reimbursement for the \$2,872 of unpaid FRS contributions and unreimbursed cost of fuel. The letter also requested reimbursement for the \$2,370 associated with the motor vehicle accident, indicating that the accident occurred while the State-owned vehicle was being used for personal reasons. The total requested reimbursement was \$5,242. As of November 13, 2018, the former PD4 Public Defender had not reimbursed the PD4 the requested amount.

In March 2018, the PD4 sent a letter to the CFO regarding the amount due from the former PD4 Public Defender and requesting guidance on how to collect that amount. In May 2018, the CFO's General Counsel sent a response letter recommending that the PD4 consider assigning the debt to a collection agency pursuant to State law.<sup>49</sup> While the PD4 consulted with DFS regarding this matter, the PD4 had not submitted to the DFS the reports prescribed by State law<sup>50</sup> regarding the amount due from the former PD4 Public Defender. Submitting the required reports would further enhance the PD4's chances of collecting such amount.

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<sup>47</sup> Office of the Public Defender, Fourth Judicial Circuit, Manual of Office Procedures, Chapter 01.

<sup>48</sup> DMS Administrative Policy 16-102.

<sup>49</sup> Section 17.20(3), Florida Statutes.

<sup>50</sup> Section 17.20(3) and (4), Florida Statutes.



**Recommendation:** The PD4 should continue efforts to seek reimbursement from the former PD4 Public Defender and take other appropriate actions, including submittal of the required reports, in accordance with State law.

#### **Finding 18: Other Personal Service Time Sheets**

Effective internal controls require supervisory approval of time worked to ensure that compensation payments are appropriate. The RC5 pays salaried employees on a payroll-by-exception basis whereby the employees are paid a fixed authorized gross amount for each payroll cycle unless the amount is altered. A payroll-by-exception methodology assumes, absent any payroll action to the contrary, that an employee worked the required number of hours in a pay period.

Other Personal Services (OPS) employees<sup>51</sup> maintain a daily time sheet. At the end of each payroll cycle, each RC5 OPS employee records the number of hours worked in the cycle on a time sheet and provides the time sheet to a supervisor for approval. The approved time sheet is then provided to the Administrative Assistant, who keys the data into BOMS, generates a monthly OPS payroll report, and provides the report to the JAC for entry into the State payroll system.

For the period July 2015 through December 2016, RC5 compensated 22 RC5 OPS employees a total of \$451,748. Our examination of supporting documentation for 6 selected OPS compensation payments totaling \$14,696 disclosed that the time sheets supporting the OPS payments were not signed by a supervisor to demonstrate review and approval. In addition, 3 of the 6 OPS payments were calculated incorrectly, resulting in underpayments totaling \$285.

In response to our inquiries, the RC5 Administrative Director indicated that the OPS time sheets had never been signed by a supervisor and one of the underpayments occurred because the OPS employee incorrectly computed the recorded hours worked on the time sheet. Without documented supervisory review and approval of time worked, there is an increased risk that employees may be incorrectly compensated or provide services inconsistent with the RC5 expectations, and that RC5 records may not be sufficiently detailed in the event of a compensation dispute.

**Recommendation:** The RC5 should enhance payroll procedures to ensure that recorded hours worked on OPS employee time sheets are correctly calculated and that time sheets are reviewed and approved by applicable supervisors.

#### **PROCUREMENT**

Included in the judicial agencies' stewardship and fiduciary responsibilities associated with managing public resources is the responsibility to ensure that controls provide for the effective and efficient use of resources in accordance with applicable laws, rules, regulations, and policies and procedures. To promote responsible spending and improved accountability, it is important that judicial agencies' records

<sup>51</sup> OPS employees are paid from OPS funds, rather than funds budgeted for salaries. Pursuant to Section 110.131, Florida Statutes, records of hours worked are required for all OPS employees and OPS employees are generally not eligible for any form of paid leave, paid holidays, participation in State group insurance or retirement benefits, or any other State employee benefit.



demonstrate that public funds are properly utilized in fulfilling the judicial agencies' legally established responsibilities.

### **Finding 19: Due Process Costs**

The Legislature, through the General Appropriations Act (GAA), annually provides the JAC two appropriations for due process costs.<sup>52</sup> One appropriation is associated with State Attorney prosecution expenses and the other is associated with Public Defender indigent defense costs. The GAA specifies an appropriation allotment amount for each State Attorney and Public Defender circuit office. For the 2015-16 and 2016-17 fiscal years, appropriations for due process costs totaled \$10.3 million for State Attorney circuit offices and \$19.3 million for Public Defender circuit offices. Pursuant to State law,<sup>53</sup> the JAC is required to review due process service related invoices, except for certain due process services enumerated in State law, submitted by the circuit offices "for compliance with applicable rates and requirements" prior to payment of those invoices.

Each circuit office incurs and processes due process costs in the same manner it would other operational costs. The circuit offices may directly acquire due process services and pay for those costs through State warrant or by using a purchasing card (P-card)<sup>54</sup> specifically designated for due process costs. Regardless of the payment method, the circuit offices are responsible for properly authorizing, approving, and retaining appropriate documentation to support procurements of goods and services.

The circuit offices provide the JAC supporting documentation for due process costs directly acquired and paid by State warrant, and the JAC reviews such documentation prior to payment to the vendor. Invoices for P-card charges for due process costs are reviewed, batched, and approved by authorized circuit personnel. However, the circuit offices are not required to provide the JAC any supporting documentation for the P-card charges as the JAC relies on the circuit offices to sufficiently evaluate documentation supporting these procurements. Consequently, during the period July 2015 through December 2016, the JAC approved and paid P-card charges totaling \$447,586 for due process costs on behalf of the circuit offices without receiving and reviewing supporting documentation for the charges.

Absent JAC review of records supporting due process costs paid using P-cards, there is an increased risk that errors or fraud associated with those costs may occur and not be timely detected and resolved.

**Recommendation: The JAC should establish procedures to obtain and review documentation supporting due process costs in accordance with State law, including those costs paid using P-cards.**

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<sup>52</sup> Due process costs are defined by the GAA as the costs specified in Sections 29.005 and 29.006, Florida Statutes. Examples of these costs include court reporting and transcription services, witnesses, and mental health professionals.

<sup>53</sup> Section 40.29(4), Florida Statutes.

<sup>54</sup> The judicial agencies use P-cards to expedite the purchase of selected goods and services. P-cards provide employees the convenience of purchasing items without using the standard purchase order process and are designed to provide a cost effective, convenient, and decentralized method for individuals to make certain business purchases on behalf of the State.



## Finding 20: Contract Procurement

The Legislature has recognized in State law<sup>55</sup> that fair and open competition is a basic tenet of public procurement and that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. An effective procurement process for contractual services typically requires documented requests for proposals, consideration of the qualifications of the service providers that respond to the requests, and selection of the most qualified service provider.

The judicial agencies are responsible for establishing controls that provide assurance that the process of acquiring goods or services is effectively and consistently administered and goods and services are procured in a fair, competitive, and reasonable manner. For the judicial agencies included in the scope of this audit that entered into contracts during the period July 2015 through December 2016, we examined records for selected contracts to determine whether the agencies complied with good business practices in procuring contractual services. We found that certain judicial agencies needed to improve procurement procedures. Specifically, we found that:

- The GAL entered into 82 contracts with expenditures totaling \$4,526,280. We requested for examination GAL records supporting 25 selected contracts with expenditures totaling \$3,725,955. We found that 24 of the 25 contracts were awarded using appropriate competitive selection procedures. However, GAL records did not demonstrate that the remaining contract with a consulting firm for \$34,900 was competitively selected. In response to our inquiry, the GAL Budget Director indicated that the firm had extensive experience and was well known to perform quality work; however, a statement documenting the decision not to seek other quotes was not entered into the contract file.
- The PD4 entered into five contracts for services. We requested for examination records supporting each of those contracts and found that PD4 records did not demonstrate that two of the five contracts were competitively selected as:
  - Although we requested, PD4 records were not provided to evidence that a firm providing legal services for the period July 2015 through June 2016 was selected using a competitive selection process designed to ensure that the firm was the most qualified firm available at a reasonable cost. The legal services contract amount was not to exceed \$90,000 plus any authorized expenses. In response to our inquiry, PD4 personnel indicated that the former PD4 Public Defender had selected the firm and developed the contract without staff involvement.
  - The other contract was with a software provider for the development and implementation of a caseload management system. The contract provided for two payments of \$16,150 for development and implementation of the system and an estimated recurring fee of \$85,500 per year. In response to our inquiry, the PD4 Administrative Director indicated that the former PD4 Public Defender made the decision to execute this contract because he believed the existing case management system was antiquated and a newer system would be more cost effective, but no documentation was available to evidence that the services were competitively selected.

The contractor had been paid a total of \$16,500 before the succeeding PD4 Public Defender took office in January 2017. According to the PD4 Administrative Director, at that time, the contractor was still in the process of developing the caseload management system and was

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<sup>55</sup> Sections 287.001, 287.055, and 287.057, Florida Statutes.



having data conversion issues. The PD4 Public Defender terminated the contract with the contractor's consent and the PD4 returned to the system already owned and maintained by the PD4.

Using competitive procurement procedures such as those specified in State law to procure contractual services would better demonstrate that contracts for services are awarded equitably and economically.

**Recommendation:** The GAL and PD4 should enhance policies and procedures to ensure the use of a documented competitive selection process for procuring contractual services.

## TRAVEL

State law<sup>56</sup> governs and authorizes travel for public officers, employees, and other authorized persons, and establishes uniform reimbursement rates and specific documentation requirements for reimbursement of travel expenses incurred by these individuals. As stewards of public funds, judicial agencies are responsible for ensuring that travel expenditures are authorized by and in accordance with applicable law, reasonable in the circumstances, and necessary to accomplish authorized public purposes.

### Finding 21: Travel Expenditures

In addition to State law, judicial agencies must comply with travel expenditure requirements included in the DFS *Reference Guide for State Expenditures*, which requires travel reimbursement requests to include, as applicable, itemized hotel receipts, transportation receipts for common carrier travel, and receipts for incidental travel expenses. If a receipt is lost, and a duplicate cannot be obtained, the traveler is to provide a certification with detailed information about the expense when seeking reimbursement.

For the judicial agencies included in the scope of this audit, we examined supporting documentation for selected travel expense reimbursements for the period July 2015 through December 2016 to determine the propriety of the reimbursements. Our procedures disclosed that reimbursements were not always supported by receipts and it was not apparent that conference travel always primarily served a public purpose. Specifically:

- From the 117 RC3 travel expenditure reimbursements totaling \$21,866, we requested for examination records supporting 25 selected reimbursements totaling \$4,554. We found that, contrary to the DFS *Reference Guide for State Expenditures*, 4 of the 25 reimbursements lacked receipts supporting travel expenses totaling \$1,427, including \$991 for hotel charges, a \$295 conference registration fee, and a \$141 airfare charge. In response to our inquiry, the RC3 Administrative Director indicated that these instances were likely attributable to human error.
- The former PD4 Public Defender, subsequent to his defeat in the August 2016 primary election, traveled to San Diego, California, to obtain training to better defend driving-while-intoxicated (DWI) cases, and to New York, New York, for an immigration law conference. The total cost of the November 2016 San Diego trip was \$2,513 and the total cost of the December 2016 New York trip was \$4,010, including \$2,417 for hotel lodging for 3 nights (approximately \$806 a night). We determined that the DWI defense training could have been obtained in Florida at a significantly lower cost and, although the immigration law conference provided the former PD4 Public Defender continuing law education (CLE), according to the PD4 Administrative Director, the PD4 does not engage in the practice of immigration law. Also, in response to our inquiry, PD4 staff

<sup>56</sup> Section 112.061, Florida Statutes.



indicated that they were unaware of the former PD's justification for selecting the more expensive DWI defense training and the immigration law conference or how the immigration law education aligned with PD4 duties.

Failure to ensure that all travel expenses are supported by receipts, and to monitor the reasonableness and public purpose served by travel, increases the risk that fraud, abuse, or errors may occur without timely detection.

**Recommendation:** The RC3 should enhance controls over travel expenditures to ensure that travel reimbursement requests are accompanied by supporting receipts or, if a receipt is not available, traveler certification with detailed information about the reimbursement requested. Also, PD4 should ensure that all travel is reasonable, economical, and supported by documentation evidencing that the travel serves a public purpose related to PD4 duties.

## **PRIOR AUDIT FOLLOW-UP**

Except as discussed in the preceding paragraphs, the selected judicial agencies had taken corrective actions for findings included in our report Nos. 2015-061 and 2012-176.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from February 2017 through February 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Justice Administrative Commission; Statewide Guardian ad Litem Office; Office of the State Attorney, Second Circuit; Offices of the Public Defender, Third and Fourth Circuits; Offices of the Criminal Conflict and Civil Regional Counsel, Second, Third, Fourth, and Fifth Regions; and Office of the Capital Collateral Regional Counsel, Northern Region; collectively referred to as selected judicial agencies, focused on selected judicial agency activities and internal controls. The overall objectives of this audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those controls.



- Determine whether management of the selected judicial agencies had taken corrective actions, as applicable, for findings included in our report Nos. 2015-061 and 2012-176.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable laws, rules, regulations, contracts, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records during the audit period July 2015 through December 2016, and selected transactions prior and subsequent thereto. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

#### **Justice Administrative Commission (JAC)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed JAC personnel to gain an understanding of processes relevant to tangible personal property (TPP); personnel and payroll; procurement; purchasing card (P-card) usage; travel; reporting performance measures and budgetary data; maintaining a registry of private court-appointed counsel and providing a copy of the registry to the Chief Justice of the Supreme Court in accordance with Section 27.710(1), Florida Statutes; paying court-appointed attorneys; developing a uniform contract for due process vendors and controlling due process payments made on behalf of judicial agencies; administering the Indigent Criminal Defense Trust Fund in accordance with Sections 27.525 and 27.562, Florida Statutes; and providing the Office



of the State Courts Administrator monthly data in accordance with Section 27.5304(12)(g), Florida Statutes.

- From the population of 570 Florida Accounting Information Resource Subsystem (FLAIR) vouchers totaling \$3,364,182 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 39 expenditures totaling \$208,348 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 13,059 FLAIR vouchers totaling \$62,488,650 representing due process expenditures other than those paid using a P-card during the audit period, examined records supporting 30 selected vouchers composed of 97 expenditures totaling \$89,024 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- For the two contracts in effect during the audit period, examined records to determine whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and whether the contract document was properly designed and executed. Also, we examined JAC records supporting one contract payment for each contract (payments totaled \$32,570) from the population of contract payments totaling \$557,274 to determine whether the JAC and the contractor complied with the executed contract.
- From the population of 92 FLAIR vouchers totaling \$43,717 representing P-card expenditures during the audit period, examined records supporting 25 selected vouchers composed of 41 P-card expenditures totaling \$15,154 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 66 FLAIR vouchers totaling \$15,832 representing travel-related expenditures during the audit period, examined records supporting 25 selected vouchers composed of 56 travel reimbursements totaling \$4,976 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 102 employees who received \$6,019,863 in compensation during the audit period, examined records for 25 selected employees, including records for 2 monthly payroll transactions for each (50 payroll transactions totaling \$174,776), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and payments were approved as required.
- Evaluated records supporting one of the two temporary salary increases for consistency with applicable pay plans and conformity with the General Appropriations Act.
- For the 12 employees hired during the audit period, determined whether records evidenced background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- From the property records, which included 260 TPP items valued at \$1,098,585, selected 30 TPP items valued at \$99,943 to determine compliance with DFS Rule 69I-72, Florida Administrative Code, regarding required property record information.



- Determined whether the JAC had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the JAC had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- Evaluated for propriety the use of private court-appointed counsel and the maintenance of a general registry as provided for in Section 27.40, Florida Statutes, including the development of a uniform contract form.
- From the population of 49,818 payments totaling \$38,888,922 during the audit period to private court-appointed counsel for the prescribed flat fee, examined records supporting 30 selected payments totaling \$1,078,170 to determine compliance with Sections 27.425(3), 27.5304, and 27.5305, Florida Statutes.
- From the population of 4,952 payments totaling \$20,438,714 during the audit period to private court-appointed counsel for a rate above the prescribed flat fee, examined records supporting 30 selected payments totaling \$3,641,244 to determine compliance with Sections 27.425(3), 27.5304, and 27.5305, Florida Statutes.
- Examined records to determine whether registries of attorneys available for appointment as counsel in postconviction capital collateral proceedings were timely provided to the Chief Justice of the Supreme Court, the chief judge and state attorney in each judicial circuit, and the Attorney General in accordance with Section 27.710(1), Florida Statutes.
- From the population of 6,473 payments totaling \$7,280,934 to court-appointed capital collateral attorneys during the audit period, examined records supporting 30 selected payments totaling \$339,500 to determine whether the payments were supported by detailed invoices and made in compliance with Section 27.711, Florida Statutes.
- Determined whether reports regarding positions receiving benefits greater than those offered under the Career Service System were timely provided to Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives in accordance with Section 43.16(4)(e), Florida Statutes.
- Determined whether annual reports of performance measure data were timely provided to the Governor, the Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives in accordance with Section 27.405, Florida Statutes.
- Determined whether quarterly reports of budgetary amounts compared to year-to-date expenditures were timely provided to the Governor, the Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives in accordance with Section 27.405, Florida Statutes.
- Determined whether monthly reports of cases approved for compensation in excess of the flat fee, and the amount of these awards by circuit and by judge, were timely provided in accordance with Section 27.5304(12)(g), Florida Statutes.

#### **Statewide Guardian ad Litem Office (GAL)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed GAL personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, reporting performance measure data, training programs, program planning, progress reporting, funding, direct-service organizations, and third-party assistance.



- From the population of 1,869 FLAIR vouchers totaling \$4,135,593 representing expenditures other than payroll, P-card, and travel-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 33 expenditures totaling \$349,742 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 82 contracts in effect during the audit period, examined records supporting 25 selected contracts to determine whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and whether the contract document was properly designed and executed. Also, we evaluated records supporting one contract payment for each of the 25 selected contracts (payments totaled \$649,741) from the population of contract payments totaling \$4,526,280 to determine whether the GAL and the contractor complied with the executed contract.
- From the population of 392 FLAIR vouchers totaling \$511,965 representing P-card expenditures during the audit period, examined records supporting 30 selected vouchers composed of 110 P-card charges totaling \$21,427 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 2,244 FLAIR vouchers totaling \$968,340 representing travel-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 148 individual travel reimbursements totaling \$18,657 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 1,040 employees who received \$39,929,861 in compensation during the audit period, examined records for 30 selected employees, including two monthly payroll transactions for each (60 payroll transactions totaling \$197,056), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and payments were approved as required.
- From the population of 244 employees hired during the audit period, examined records for 30 selected employees to determine whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- From the property records, which included 116 TPP items for the Tallahassee GAL office, selected 25 TPP items to determine compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the GAL had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the GAL had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- Evaluated the basis for the GAL direct-support organization (DSO) created pursuant to Section 39.8298, Florida Statutes, and relationship of the GAL to the DSO.
- Determined whether interim reports describing the GAL's progress in meeting the goals prescribed in Section 39.8296, Florida Statutes, and the plan for meeting these goals, were timely



provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court in accordance with Section 39.8296(2)(b)(8), Florida Statutes.

#### **State Attorney, 2nd Judicial Circuit (SA2)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed SA2 personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, motor vehicle usage, claims reporting, budgets and appropriations, and trust fund management.
- From the population of 210 FLAIR vouchers totaling \$758,030 representing expenditures other than payroll, P-card, and travel-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 122 individual expenditures totaling \$85,461 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- For the five contracts in effect during the audit period, determined whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and whether the contract document was properly designed and executed. Also, we evaluated one or two contract payments for each contract (payments totaled \$9,262) from the population of contract payments totaling \$131,446 to determine whether the SA2 and the contractor complied with the executed contract.
- From the population of 32 FLAIR vouchers totaling \$12,409 representing P-card expenditures during the audit period, examined records supporting 20 selected vouchers composed of 26 P-card expenditures totaling \$8,168 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 44 FLAIR vouchers totaling \$58,774 representing travel-related expenditures during the audit period, examined records supporting 20 selected vouchers composed of 32 travel reimbursements totaling \$19,721 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 145 employees who received \$8,315,855 in compensation during the audit period, examined records for 25 selected employees, including two monthly payroll transactions for 24 employees and one monthly payroll transaction for the other employee<sup>57</sup> (49 payroll transactions totaling \$189,702), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- From the population of 28 employees hired during the audit period, examined records for 15 selected employees to determine whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- From the property records, which included 246 TPP items valued at \$1,297,724, selected 25 TPP items valued at \$61,535 to determine compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.

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<sup>57</sup> The employee only worked one pay period during the audit period.



- Determined whether the SA2 had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the SA2 had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- From the population of 37 motor vehicles shown on the property records, examined records supporting 20 vehicles, including two monthly logs for each to determine the completeness and adequacy of the logs.
- Determined whether reports of the condition of claims and the probable solvency of claims not collected were provided to the Chief Financial Officer in accordance with Section 27.11, Florida Statutes.

#### **Public Defender, 3rd Judicial Circuit (PD3)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed PD3 personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, motor vehicle usage, and reporting performance measure data.
- From the population of 139 FLAIR vouchers totaling \$131,947 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 54 expenditures totaling \$31,761 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 25 FLAIR vouchers totaling \$25,626 representing travel-related expenditures during the audit period, examined records supporting 20 selected vouchers composed of 34 travel reimbursements totaling \$16,202 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 44 employees who received \$2,738,410 in compensation during the audit period, examined records for 20 selected employees, including two monthly payroll transactions for each (40 payroll transactions totaling \$159,174), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- For the five employees hired during the audit period, determined whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- For the 29 TPP items valued at \$188,385 shown on the property records, determined compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the PD3 had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the PD3 had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal



compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.

- Examined 18 monthly logs for each of the four motor vehicles shown on the property records to determine the completeness and adequacy of the logs.

#### **Public Defender, 4th Judicial Circuit (PD4)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed PD4 personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, motor vehicle usages, and reporting performance measure data.
- From the population of 374 FLAIR vouchers totaling \$795,842 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 44 expenditures totaling \$177,739 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- For the five contracts in effect during the audit period, determined whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and whether the contract document was properly designed and executed. Also, we evaluated one contract payment for each of three contracts<sup>58</sup> (payments totaled \$23,840) from the population of contract payments totaling \$151,340 to determine whether the PD4 and the contractor complied with the executed contract.
- From the population of 43 FLAIR vouchers totaling \$13,862 representing P-card expenditures during the audit period, examined records supporting 20 selected vouchers composed of 45 P-card expenditures totaling \$5,707 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- Evaluated all 149 expenditures totaling \$49,910 from a business travel charge account during the audit period to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 83 FLAIR vouchers totaling \$68,187 representing travel-related expenditures during the audit period, examined records supporting 27 selected vouchers composed of 131 travel reimbursements totaling \$19,671 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 207 employees who received \$13,215,029 in compensation during the audit period, examined records for 30 selected employees, including two monthly payroll transactions for each (60 payroll transactions totaling \$207,917), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- From the population of 38 employees hired during the audit period, examined records for 20 selected employees to determine whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.

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<sup>58</sup> There were no payments made for the other contracts during the audit period.



- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- From the property records, which included 32 TPP items for the Jacksonville PD4 office valued at \$295,187, selected 20 TPP items valued at \$197,953 to determine compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the PD4 had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the PD4 had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- For 25 of the 132 TPP items disposed of during the audit period, determined whether documentation was available to evidence that the disposals were properly authorized and handled in accordance with Chapter 69I-72, Florida Administrative Code.
- For the 12 motor vehicles shown on the property records, examined two monthly logs for 11 vehicles and examined 18 vehicle logs for the other vehicle, to determine the completeness and adequacy of the logs.
- Performed additional testing, review, inquiry, and analytical procedures as necessary to address concerns presented by the PD4 Public Defender, who took office in January 2017. Specifically, we:
  - Identified 14 PD4 employees who received salary increases in September 2016 or October 2016 and evaluated all 14 increases for compliance with internal policies and procedures. We also performed analytical procedures to determine the reasonableness of salary increases provided to identified employees compared to the remainder of the PD4 employees.
  - Evaluated the PD4's process for approving, recording, and maintaining time sheets and leave records. For 8 employees for which concerns were expressed to us regarding attendance, we compared the time sheets and leave records of the employees to the security card access system's logs to identify user frequency trends and conflicts between the logs and the employees' time sheets and leave records.
  - For the 17 employees who allegedly received administrative leave payments or earned compensatory leave credits for time spent on a nonprofit organization's activities, reviewed time sheets, leave documentation, and compensatory time requests to determine the propriety of the administrative leave payments and compensatory time earned.
  - Evaluated records supporting the seven trips taken by three selected PD4 employees to determine the necessity of the travel and the reasonableness of the associated travel-related expenditures.
  - Evaluated the procurement procedures used to execute a contract with a vendor that provided e-mail templates for the PD4 to determine compliance with PD4 policies and procedures, State law, and other guidance. We also made inquiries and examined financial disclosure forms and related records to determine whether a related-party relationship existed between the vendor and PD4 management.
  - Evaluated procurement procedures used to execute a contract with a vendor for the development and implementation of a new caseload management system to determine compliance with PD4 policies and procedures, State law, and other guidance. We also made



inquiries and examined financial disclosure forms and related records to determine whether a related-party relationship existed between the vendor and PD4 management.

- Examined selected monthly vehicle use logs associated with the PD4's assigned motor vehicles to determine the completeness and adequacy of the logs.
- Examined records supporting the donation of ten computers and nine firearms to determine compliance with DFS Rule 69I-72, Florida Administrative Code, regarding property disposals.
- Regarding an alleged failure of the former PD4 Public Defender to reimburse the PD4 for personal use of a State-owned motor vehicle, evaluated policies and procedures for recording, reporting, and paying the noncash taxable fringe benefits; recalculated the taxable fringe benefits and personal use costs associated with the former PD4 Public Defender's use of the vehicle; and determined whether the former PD4 Public Defender reimbursed the appropriate amount.
- Regarding an alleged failure of the former PD4 Public Defender to reimburse the State for his portion of the retirement adjustment paid on his behalf to the DFS, evaluated the guidelines and procedures for contributing to the State retirement system, determined the former PD4 Public Defender's liability, and determined whether the former PD4 Public Defender reimbursed the State for contributions made on his behalf.
- Regarding an alleged failure of the former PD4 Public Defender to properly reimburse costs incurred due to an accident involving a State motor vehicle that occurred during off-duty hours, examined the accident report and compared the location, time, and date to the former PD4 Public Defender's time sheet; determined whether vehicle insurance was maintained and employees were required to obtain private insurance for the operation of State vehicles for personal use; determined whether an insurance claim or accident report was filed with the DMS; and determined whether the former PD4 Public Defender paid for the cost of vehicle repairs or reimbursed the State for those costs.

#### **Criminal Conflict and Civil Regional Counsel, 2nd Region (RC2)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed RC2 personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, motor vehicle usage, and reporting performance measure data.
- From the population of 2,201 FLAIR vouchers totaling \$1,753,185 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 41 individual expenditures totaling \$51,802 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 73 contracts in effect during the audit period, selected 24 contracts to determine whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and whether the contract document was properly designed and executed. Also, we evaluated one contract payment for each of the 24 selected contracts (payments totaled \$86,828) from the population of contract payments totaling \$2,327,713 to determine whether the RC2 and the contractor complied with the executed contract.
- From the population of 55 FLAIR vouchers totaling \$82,052 representing P-card expenditures during the audit period, examined records supporting 25 selected vouchers composed of 67 P-card expenditures totaling \$33,091 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.



- From the population of 424 FLAIR vouchers totaling \$80,018 representing travel-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 31 travel reimbursements totaling \$7,041 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 136 employees who received \$8,157,393 in compensation during the audit period, examined records for 25 selected employees, including two monthly payroll transactions for each (50 payroll transactions totaling \$192,841), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- For the 10 employees hired during the audit period, determined whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- For the 20 TPP items valued at \$68,366 shown on the property records, determined compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the RC2 had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the RC2 had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.

#### **Criminal Conflict and Civil Regional Counsel, 3rd Region (RC3)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed RC3 personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, motor vehicle usage, and reporting performance measure data.
- From the population of 1,359 FLAIR vouchers totaling \$1,765,664 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 36 expenditures totaling \$89,969 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 35 contracts in effect during the audit period, examined records supporting 20 selected contracts to determine whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and whether the contract document was properly designed and executed. Also, we evaluated one contract payment for each of the 20 selected contracts (payments totaled \$76,211) from the population of contract payments totaling \$1,879,513 to determine whether the RC3 and the contractor complied with the executed contract.
- From the population of 35 FLAIR vouchers totaling \$16,170 representing P-card expenditures during the audit period, examined records supporting 20 selected vouchers composed of 48 P-card expenditures totaling \$13,743 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.



- From the population of 117 FLAIR vouchers totaling \$21,866 representing travel-related expenditures during the audit period, examined records supporting 25 selected vouchers composed of 25 travel reimbursements totaling \$4,554 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 73 employees who received \$4,096,843 in compensation during the audit period, examined records for 25 selected employees, including two monthly payroll transactions for each (50 payroll transactions totaling \$180,674), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- For the 15 employees hired during the audit period, determined whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- From the property records, which included 488 TPP items, selected 30 TPP items to determine compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the RC3 had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the RC3 had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- For the 157 TPP items disposed of during the audit period, determined whether documentation was available to evidence that the disposals were properly authorized and handled in accordance with DFS Rule 69I-72, Florida Administrative Code.

#### **Criminal Conflict and Civil Regional Counsel, 4th Region (RC4)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed RC4 personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, motor vehicle usage, and reporting performance measure data.
- From the population of 2,217 FLAIR vouchers totaling \$2,878,347 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 30 expenditures totaling \$165,416 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 49 contracts in effect during the audit period, examined records supporting 24 selected contracts to determine whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and whether the contract document was properly designed and executed. Also, we evaluated one contract payment for each of the 24 selected contracts (payments totaled \$176,328) from the population of contract payments totaling \$1,944,526 to determine whether the RC4 and the contractor complied with the executed contract.



- From the population of 94 FLAIR vouchers totaling \$114,161 representing P-card expenditures during the audit period, examined records supporting 25 selected vouchers composed of 67 P-card expenditures totaling \$17,087 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 374 FLAIR vouchers totaling \$42,528 representing travel-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 31 travel reimbursements totaling \$4,773 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 120 employees who received \$6,188,978 in compensation during the audit period, examined records for 30 selected employees, including two monthly payroll transactions for each (60 payroll transactions totaling \$221,994), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- From the population of 41 employees hired during the audit period, examined records for 20 selected employees to determine whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- From the property records, which included 797 TPP items valued at \$281,785, selected 30 TPP items to determine compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the RC4 had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the RC4 had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- For 11 of the 32 TPP items disposed of during the audit period, determined whether documentation was available to evidence that the disposals were properly authorized and handled in accordance with Chapter 69I-72, Florida Administrative Code.

#### **Criminal Conflict and Civil Regional Counsel, 5th Region (RC5)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed RC5 personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, motor vehicle usage, and reporting performance measure data.
- From the population of 1,558 FLAIR vouchers totaling \$1,751,739 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers composed of 36 expenditures totaling \$80,071 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 73 contracts in effect during the audit period, examined records supporting 25 selected contracts to determine whether the contractual services were properly procured in accordance with applicable laws, rules, regulations, contracts, and policies and procedures, and



whether the contract document was properly designed and executed. Also, we evaluated records supporting one contract payment each for 19 of the 25 selected contracts<sup>59</sup> (payments totaled \$54,517) from the population of contract payments totaling \$1,305,400 to determine whether the RC5 and the contractor complied with the executed contract.

- From the population of 43 FLAIR vouchers totaling \$29,812 representing P-card expenditures during the audit period, examined records supporting 20 selected vouchers composed of 58 P-card expenditures totaling \$15,114 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 346 FLAIR vouchers totaling \$64,892 representing travel-related expenditures during the audit period, selected 30 vouchers composed of 30 travel reimbursements totaling \$5,514 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 100 employees who received \$5,963,959 in compensation during the audit period, examined records for 25 selected employees, including two monthly payroll transactions for each (50 payroll transactions totaling \$191,904), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- For the 8 employees hired during the audit period, determined whether there was evidence of background and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- For the 13 TPP items valued at \$49,272 located in Seminole County as shown on the property records, determined compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the RC5 had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the RC5 had identified and established adequate controls over TPP items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- For the 3 TPP items disposed of during the audit period, determined whether documentation was available to evidence that the disposals were properly authorized and handled in accordance with Chapter 69I-72, Florida Administrative Code.

#### **Capital Collateral Regional Counsel, Northern Region (CCRC-N)**

- Reviewed applicable laws, rules, regulations, contracts, policies and procedures, and other guidelines, and interviewed CCRC-N personnel to gain an understanding of processes relevant to TPP, personnel and payroll, procurement, travel, and reporting investigative and capital collateral representation cost data.
- From the population of 296 FLAIR vouchers, totaling \$610,101 representing expenditures other than payroll, P-card, travel, and due process-related expenditures during the audit period, examined records supporting 30 selected vouchers totaling \$125,838 to determine whether the

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<sup>59</sup> There were no payments made for the other 6 contracts during the audit period.



expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.

- From the population of 116 FLAIR vouchers totaling \$43,041 representing P-card expenditures during the audit period, examined records supporting 25 selected vouchers composed of 95 P-card expenditures totaling \$25,173 to determine whether the expenditures were reasonable; served a public purpose; were correctly posted to FLAIR; and complied with applicable laws, rules, regulations, contracts, and policies and procedures.
- From the population of 190 FLAIR vouchers totaling \$25,547 representing travel-related expenditures during the audit period, examined records supporting 30 vouchers composed of 38 travel expenditures (i.e., travel reimbursements or P-card charges) totaling \$4,526 to determine whether the expenditures were reasonable, served a public purpose, and complied with Section 112.061, Florida Statutes.
- From the population of 24 employees who received \$989,976 in compensation during the audit period, examined records for 15 selected employees, including two monthly payroll transactions for 13 employees and one monthly payroll transaction for the other 2 employees<sup>60</sup> (28 payroll transactions totaling \$91,189), to determine whether the employees were correctly paid based on the authorized pay rate and time records, the employees' leave records were correctly updated for leave used, and the payments were approved as required.
- For the 11 employees hired during the audit period, determined whether there was evidence of background screenings and verification that the employee met position education and work experience requirements.
- Determined whether a physical inventory of all TPP items was completed for the 2015-16 fiscal year and whether records maintained evidencing the physical inventory included all the information required by DFS Rule 69I-72, Florida Administrative Code.
- From the property records, which included 93 TPP items valued at \$220,352, selected 25 TPP items valued at \$77,909 to determine compliance with Chapter 69I-72, Florida Administrative Code, regarding required property record information.
- Determined whether the CCRC-N had established a review board in accordance with Section 273.05(2), Florida Statutes, or otherwise established procedures requiring at least two individuals to approve or disapprove the classification of TPP items as surplus.
- Determined whether the CCRC-N had identified, and established adequate controls over, property items with a value or cost of less than \$1,000 requiring special attention to ensure legal compliance, protect public safety and avoid potential liability, or compensate for a heightened risk of theft.
- Determined whether quarterly reports detailing the hours worked by investigators and legal counsel per case and the amounts expended per case were timely provided to the President of the Senate and the Speaker of the House of Representatives in accordance with Section 27.702(4)(b), Florida Statutes.

### **General**

- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.

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<sup>60</sup> These employees only worked one pay period during the audit period.



- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's responses are included in this report under the heading **MANAGEMENT RESPONSES**.



## **AUTHORITY**

Section 11.45(2)(f), Florida Statutes, requires the Auditor General to conduct operational audits of State agencies at least once every 3 years. Pursuant to the provisions of Section 11.45(2)(f), Florida Statutes, I have directed this report be prepared to present the results of our operational audit.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is fluid and cursive, with the first name "Sherrill" and last name "Norman" clearly legible, and a middle initial "F." in between.

Sherrill F. Norman, CPA  
Auditor General



# MANAGEMENT RESPONSES<sup>61</sup>

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Alton L. "Rip" Colvin, Jr.  
Executive Director

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THE STATE OF FLORIDA  
**JUSTICE ADMINISTRATIVE COMMISSION**

227 North Bronough Street, Suite 2100  
Tallahassee, Florida 32301



**COMMISSIONERS**

Brad King, Chair  
State Attorney  
Diamond R. Litty  
Public Defender  
Kathleen A. Smith  
Public Defender  
Brian Haas  
State Attorney

June 26, 2019

The Honorable Sherrill F. Norman, CPA  
Auditor General  
State of Florida  
Claude Denson Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Thank you for the opportunity to respond to the Preliminary and Tentative Findings related to the Justice Administrative Commission (JAC) disclosed in the Operational Audit of the JAC and other selected judicial agencies. Please note, pursuant to s. 43.16, F.S., the JAC administratively serves the Offices of State Attorney, Public Defender, Capital Collateral Regional Counsel, Criminal Conflict and Civil Regional Counsel, and Guardian ad Litem. Our responses to Finding Nos. 1, 2, 4, 7, 10, 13, and 19 follow:

**Finding No. 1: Business Office Management System (BOMS)**

**Recommendation:** *The JAC and the applicable judicial agencies should: (1) take appropriate steps to ensure that, upon implementation of the new State accounting system, duplication of accounting efforts is limited and BOMS maintenance expenses are reduced; and (2) establish business continuity and disaster recovery plans.*

**Response:** JAC appreciates the spirit of the recommendation related to the Auditor General's concern for duplication of accounting efforts and will consider it moving forward as the state's new accounting system is implemented. However, the entering of accounting transactions into the current system requires minimal effort. The perception of a duplication of effort is outweighed by the reality of the value JAC staff add to each transaction by instantly verifying and accurately inputting necessary information into the current system to better comply with Florida law and the specific requirements of the Department of Financial Services.

**Finding No. 2: Internal Audit Function**

**Recommendation:** *We recommend that the Legislature consider whether the JAC and the other judicial agencies should employ, or otherwise provide for, an internal auditor with the qualifications and duties prescribed in State law for State agency directors of auditing. We also*

The Justice Administrative Commission administratively serves the offices of State Attorney, Public Defender, Criminal Conflict and Civil Regional Counsel, Capital Collateral Regional Counsel, and the Statewide Guardian ad Litem Program, and performs compliance and financial review of court-appointed attorney and due process vendor bills.

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<sup>61</sup> Management responses may refer to attachments that are not included in this report but are public records that may be obtained from the respective agency.



*recommend that the JAC consider requesting the necessary positions and funding from the Legislature to implement an internal audit function.*

**Response:** JAC concurs that internal auditors help to improve controls within state government and assist management in efforts to ensure that state funds are properly administered. As noted, s. 20.055, F.S., does not apply to the JAC or the agencies of Justice Administration. The JAC will comply with Legislative direction regarding this issue. In line with its supportive role, JAC will continue to present best business practice and internal control information to the agencies of Justice Administration.

**Finding No. 4: Anti-Fraud Policy**

**Recommendation:** *The JAC and the other judicial agencies should enhance their anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.*

**Response:** JAC concurs with the recommendation and is in the process of amending our policies and procedures to allow individuals to anonymously report policy violations, as well as known or suspected fraud.

**Finding No. 7: Enhance Procedures to Ensure JAC's Court-Appointed Reports are Timely Provided to Appropriate Parties**

**Recommendation:** *The JAC should enhance procedures to ensure that the specified reports are timely provided to the appropriate officials as required by State law.*

**Response:** JAC concurs with the recommendation. In December 2018, JAC's court-appointed reporting was transferred to the Financial Services Section. Upon receiving the task, the current procedure was reviewed, revised, and simplified. Rather than sending multiple emails to 13 external groups for the 22 reports, it was determined that a single email would be sent to all groups containing all of the required reports. This simplified procedure ensures timely distribution of the reports.

**Finding No. 10: Property Disposal**

**Recommendation:** *The JAC should enhance controls to ensure authorization for TPP disposals is properly obtained and documented in accordance with DFS rules and prescribed agency procedures.*

**Response:** JAC concurs with the recommendation and has reviewed the existing procedures for TPP disposals with an emphasis on ensuring that all future disposals are documented in accordance with DFS rules and prescribed agency procedures.



**Finding No.13: Position Descriptions**

**Recommendation:** *The judicial agencies should develop position descriptions for all positions included in their classification and pay plans. Each position description should describe, at a minimum, the responsibilities to be performed and educational and work experience required.*

**Response:** As noted in the finding, the JAC has developed position descriptions for all authorized salaried positions. JAC prefers to place less emphasis on educational and work experience requirements as JAC requires training and emphasizes professional development very heavily and prefers to hire for attitude and train for skill. However, we will consider including appropriate educational and work experience requirements in position descriptions while ensuring that such requirements are not too restrictive so as to preclude JAC from being exposed to a reasonably diverse pool of applicants. In situations where winnowing applicant pools has value, JAC takes advantage of the “qualifying questions” option provided by the People First Request to Fill process.

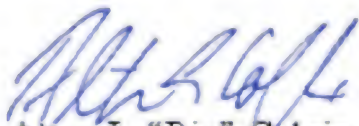
**Finding No. 19: PCard Charges for Due Process Expenditures by JROs**

**Recommendation:** *The JAC should establish procedures to obtain and review documentation supporting due process costs in accordance with state law, including those costs paid using PCards.*

**Response:** JAC is currently engaged in the implementation of a web-based project known as PCard Works and is scheduled to transition September 6, 2019. The PCard Works system will contain the necessary documentation to support each transaction. There are three levels of users in the new system who must verify that the appropriate receipts and documentation are attached to each charge and must certify that they personally reviewed the information for accuracy before approving the transaction. JAC will be the final approver for due process-related transactions. The PCard Works system will therefore enable JAC to review supporting documentation for due process costs paid using PCards, addressing the finding and recommendation.

Thank you for the impressive effort put forth by your staff to conduct this audit and the opportunity to respond to the findings and recommendations.

Sincerely,



Alton L. “Rip” Colvin, Jr.  
Executive Director

cc: Michael Gomez





## FLORIDA STATEWIDE GUARDIAN AD LITEM OFFICE



*Alan F. Abramowitz,*  
*Executive Director*

July 3, 2019

Sherrill F. Norman, CPA  
Auditor General  
Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear General Norman:

Thank you for sharing the Preliminary and Tentative Findings from the audit of the Statewide Guardian ad Litem (GAL) Office for FY 15-16 and FY 16-17. We have attached our response to all findings relevant to the GAL Office: 1, 2, 3, 4, 5, 8, 9, 14, and 20.

Further, we would ask that your staff consider revisions to Findings 1, 2, 8, 9 and 14, which state that, "A similar finding was noted in our report No. 2015-061." The Guardian ad Litem Office was not reviewed as part of audit No. 2015-061. Therefore, these statements are not accurate as to the GAL.

In closing, we wish to emphasize that we appreciated the professionalism of the auditors assigned to this project and the insights and best practices they shared. The Office will be happy to discuss any of our responses if you or they have questions or concerns about this response.

Sincerely,

for Alan Abramowitz  
Executive Director

Cc: Michael Nichols  
Dennis Moore  
Debra Ervin



**Response from Statewide Guardian ad Litem Office to Auditor General Preliminary and  
Tentative Audit Findings and Recommendations for FY 15-16 and FY 16-17**

**General Management Controls**

**Finding 1:** The JAC and some other judicial agencies used the Business Office Management System (BOMS) for their accounting records, which unnecessarily duplicated the State accounting entries in the Florida Accounting Information Resource Subsystem. In addition, the JAC and other judicial agencies used the BOMS without a business continuity plan to mitigate the risk of system disruption or a formal disaster recovery plan to protect the agencies from data loss. Similar findings were noted in our report Nos. 2015-061 and 2012-176.

**Recommendation:** The JAC and the applicable judicial agencies should:

- Take appropriate steps to ensure that, upon implementation of the new State accounting system, duplication of accounting efforts is limited and BOMS maintenance expenses are reduced.
- Establish business continuity and disaster recovery plans.

**Response:** The Florida Statewide Guardian ad Litem Office plans to discontinue its use of BOMS (Business Office Management System) effective July 1, 2019. With respect to business continuity, the Guardian ad Litem uses the Northwest Regional Data Center (NWRDC) for our application and data storage. Our staff, with the exception of the staff located in the State Office, uses a virtual connection (Citrix) to connect to the NWRDC to access the applications necessary to perform their duties. The Citrix connection is also available to members of the State Office in the event they need access to our network applications or data remotely. A third party hosts Optima (our case management data system) and maintains a separate recovery plan for that application and data storage.

NWRDC backs up servers on a nightly basis and has redundancy to their offsite backup located in Atlanta. In the event of a disaster, the Guardian ad Litem, through the Citrix connection, would be able to continue business operations by connecting to the NWRDC. If data were lost, NWRDC would then recover the data from their backup site in Atlanta. The Guardian ad Litem could then continue to perform their mission critical business functions.

Although we are prepared to maintain systems connections in the event of a disaster, this information has not been formalized and documented as suggested in a written plan. The GAL agrees that a formal plan for ensuring continuity in the event of a disaster is needed.

Of note, the Guardian ad Litem Office was not reviewed in audit report No. 2015-061.

**Finding 2:** Although the Government Finance Officers Association recommends that governments consider establishing an internal audit function, as similarly noted in our report Nos. 2015-061 and 2012-176, the JAC and the other judicial agencies had not provided for an internal audit function.

**Recommendation:** We recommend that the Legislature consider whether the JAC and the other judicial agencies should employ, or otherwise provide for, an internal auditor with the



qualifications and duties prescribed in State law for State agency directors of auditing. We also recommend that the JAC consider requesting the necessary positions and funding from the Legislature to implement an internal audit function.

**Response:** The Florida Guardian ad Litem Office agrees that internal auditors help to improve controls within state government and assist management in efforts to ensure that state funds are properly administered. The Guardian ad Litem Program will comply with Legislative direction on this issue. Of note, the Guardian ad Litem Office was not reviewed in audit report No. 2015-061.

**Finding 3:** The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N had not established comprehensive policies and procedures for the entities' operations.

**Recommendation:** The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N should establish and implement comprehensive policies and procedures.

**Response:** The Guardian ad Litem Office agrees that policies and procedures for implementing an annual audit of tangible personal property should be formalized and updated in accordance with the findings of this review.

On January 24, 2019, in response to a question from the audit team, the GAL Budget Director responded in part,

"I have attached the final purchasing and inventory control policies and procedures we implemented last fiscal year. We purchased the WASP inventory control software in June/July 2017 as a first step in implementing the new purchasing and inventory control procedures. We also created a purchasing and inventory specialist position in OPS to help us maintain our inventory. By March 2018, the inventory specialist finished cross referencing most of the inventory information you received from our IT Department with the inventory information contained in the old inventory database (BOMS). The items were all entered into the new inventory control system (WASP). Also, following our recent post-audit meeting, we started pulling all of the voucher schedules associated with each item in the inventory database to make sure the entries in WASP include the appropriate financial and product data (i.e. serial numbers, voucher/warrant numbers, payment dates, etc.)."

**Finding 4:** Anti-fraud policies and procedures established by the selected judicial agencies lacked incident reporting procedures that allow individuals to anonymously report policy violations and known or suspected fraud.

**Recommendation:** The JAC and the other judicial agencies should enhance their anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.

**Response:** The Florida Guardian ad Litem Office understands the potential value of an anonymous reporting mechanism. The Office established its written anti-fraud policy



subsequent to the initial inquiry of the Auditor General preceding audit report number 2012-176. At that time, an anonymous reporting provision was not included due to the challenges of investigating complaints of this nature. We will explore options to determine the best system for such complaints and implement a process accordingly.

**Finding 5:** The GAL direct-support organization for the 2015-16 and 2016-17 fiscal years did not operate pursuant to a written contract with the GAL, contrary to State law.

**Recommendation:** The GAL should continue efforts to ensure that a written contract with the Foundation is maintained in accordance with State law.

**Response:** The Florida Guardian ad Litem concurs with the recommendation. A contract is currently in place and the contract for FY 19-20 is being processed and will be executed before July 1, 2019.

## **Tangible Personal Property**

**Finding 8:** The SA2, PD3, and RC3 did not, of record, conduct a physical inventory of tangible personal property for the 2015-16 fiscal year, and several judicial agencies did not maintain, for physical inventories conducted, all the information required by Department of Financial Services (DFS) rules. A similar finding was noted in our report No. 2015-061

**Recommendation:** Judicial agencies should ensure that complete physical inventories of TPP are timely conducted and all required physical inventory information is maintained in accordance with DFS rules.

**Response:** The Guardian ad Litem Office conducted a physical inventory of tangible personal property for the 2015-2016 fiscal year. However, discussion of this recommendation identifies three (3) data items that were not included on the GAL physical inventory of tangible personal property:

- GAL physical inventory records did not always include the property item identification number.
- GAL and RC2 physical inventory records did not always include the manufacturers' serial numbers, where applicable.
- GAL and RC2 physical inventory records did not include the acquisition date of the TPP items.

The GAL Office began entering these items on the physical property inventory subsequent to the exit conference held for this audit report, as indicated by the Budget Director (see response to Finding 3. Of note, the Guardian ad Litem Office was not reviewed in audit report No. 2015-061.

**Finding 9:** Tangible personal property records for several judicial agencies lacked certain information required by DFS rules. A similar finding was noted in our report No. 2015-061.



**Recommendation:** Judicial agencies should ensure that property records include, for each TPP item, the information required by DFS rules and that property items are assigned distinct property numbers.

**Response:** This item, as it relates to the Findings for Guardian ad Litem, duplicates Finding 8, with one exception. The audit noted that the GAL Office did not include on the physical inventory the following:

- the method of acquisition, including the Statewide document number

The Guardian ad Litem Office will begin collection of method of acquisition and State document number for all tangible personal property purchased. Of note, the Guardian ad Litem Office was not reviewed in audit report No. 2015-061.

## **Personnel and Payroll**

**Finding 14:** The personnel files of certain judicial agencies lacked documentation evidencing verification of employee education and work experience. A similar finding was noted in our report No. 2015-061.

**Recommendation:** The judicial agencies should establish procedures for verifying and documenting in the personnel records that, prior to hire, applicants meet the minimum experience and educational requirements of the applicable positions.

**Response:** Because the Guardian ad Litem Office was not reviewed in Report Number 2015-061, referenced in this finding, we request that fact be noted in the response.

Our records from the exit conference indicate that one (1) file of 30 (3%) examined for the GAL Office was lacking documentation of a high school diploma. This oversight will be corrected. It is the policy of the GAL Office to verify and include in the personnel file verification of education.

## **Procurement**

**Finding 20:** GAL and PD4 records did not always demonstrate that contracts for services were awarded equitably and economically.

**Recommendation:** The GAL and PD4 should enhance policies and procedures to ensure the use of a documented competitive selection process for procuring contractual services.

**Response:** The discussion of this Finding states, in part: “[w]e found that 24 of the 25 contracts were awarded using appropriate competitive selection procedures.” As evidenced by the audit findings, Guardian ad Litem makes a concerted effort to follow the provisions of section 287.057 F.S. That said, the one contract referenced in the findings did not include any competitive procurement documentation. As a best practice, the Guardian ad Litem Program will ensure all future contract files include documentation of procurement actions and decisions.



**JACK CAMPBELL**  
STATE ATTORNEY



OFFICE OF THE  
**STATE ATTORNEY**  
SECOND JUDICIAL CIRCUIT OF FLORIDA

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GADSDEN/LIBERTY: (850) 627-9647  
JEFFERSON: (850) 342-0196  
WAKULLA: (850) 926-0914

June 26, 2019

Ms. Sherrill F. Norman, CPA  
Auditor General, State of Florida  
Claude Denson Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Ms. Norman:

Pursuant to Section 11.45(4)(d), Florida Statutes, please find this written statement of explanation to the preliminary and tentative audit findings and recommendations from the operational audit of the Office of the State Attorney, 2<sup>nd</sup> Judicial Circuit dated June 4, 2019.

**Finding No 1 Business Office Management System:** Our agency will agree to work with JAC upon implementation of the new State accounting system, to take appropriate steps to ensure that the duplication of accounting efforts is limited and BOMS maintenance expenses are reduced. In addition, we have attached a copy of Leon County's Business Continuity Plan, not previously provided to you, in order to support the existence of this plan. Our agency's network is fully supported by their Management Information System's Department.

**Finding No 2 Internal Audit Function:** Our agency agrees that the role of an internal auditor would promote compliance with applicable laws, contracts and established policies and procedures. Currently, state law does not require our agency to establish an internal audit function. We will continue to comply with Legislative direction regarding this issue. We will also seek out guidance and direction when necessary from the Auditor General's office.

**Finding No 3 Policies and Procedures:** Our agency has established and implemented the policies brought forth in finding #3. Written annual physical inventory policies have been established and implemented. Our agency has also implemented a policy that requires documented verification that new hires have met the minimum education requirements of their position.



**Finding No 4 Anti-Fraud Policies and Procedures:** Our agency is working towards enhancing our anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.

**Finding No 6 Separation of Duties:** Inventory policies have been implemented to ensure adequate separation of duties to the extent possible during the performance of our annual inventory of property items.

**Finding No 8 Annual Physical Tangible Personal Property Inventory and Records:** Inventory policies have been implemented to ensure that evidence of an annual physical inventory is maintained in accordance with DFS Rule 69I-72.006, Florida Administrative Code.

**Finding No 9 Tangible Personal Property Records:** Inventory policies have been implemented to ensure that our agency property records include the information required by DFS Rule 69I-72.003, Florida Administrative Code, including the Statewide document number.

**Finding No 10 Tangible Personal Property Disposals:** Our agency has established a review board to examine and make recommendations approving or disapproving the classification of surplus for agency tangible personal property. Related policies have been updated to include this procedure.

**Finding No 13 Position Descriptions:** Our agency will agree to work collectively with the Board members of the Florida Prosecuting Attorneys Association towards amending the Classification and Pay Plan for the Employees of the Offices of the State Attorneys of the State of Florida to include a position description for Assistant State Attorneys that would include minimum education and work experience requirements.

We appreciate the courtesy that was extended to our staff during the course of this audit. Your audit team was both knowledgeable and professional and we appreciate this opportunity to improve the operations of our agency. If there is anything further we can provide, please advise.

Sincerely,



Mary Dean Barwick  
Executive Director





Office of  
**M. Blair Payne**  
**Public Defender**  
**Third Judicial Circuit of Florida**  
Serving Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor

Columbia County Courthouse  
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Lake City, Florida  
32055  
(386) 758-0540

July 1, 2019

Sherrill F. Norman  
Auditor General  
State of Florida  
111 West Madison Street  
Tallahassee, FL 32399-1450

Re: Third Circuit Public Defender's response to preliminary and tentative audit findings.

Dear AG Norman:

Kindly treat this letter as our response to the recent audit report. Should you have any questions, please advise.

**Finding 2: Internal Audit Function:** PD3 does not have the necessary funding or personnel to create an internal audit function.

**Finding 3: Policies and Procedures:** Although the PD3 has established a personnel policy manual, there are no comprehensive written policies and procedures. The administrative functions in this office are controlled and performed by two people, the elected Public Defender and the Administrative Director. However, PD3 will work toward establishing such a written policy as time permits.

**Finding 4: Anti-Fraud Policies and Procedures** – PD3 has an anti-fraud policy. It does not contain provisions for anonymous policies because of a strong belief, consistent with our core mission of protecting the constitutional rights of our clients, that people are entitled to know and challenge their accusers. However, we will consider adding an anonymous policy in future updates.

**Finding 6: Separation of Duties** – While the Administrative Director does prepare the batch sheets (which have copies of all invoices attached) and the batch sheet control log, the elected Public Defender then reviews the batch sheets and invoices, verifies each batch sheet by signing it, and initials the batch sheet control log prior to submission to JAC. However, we will consider, to the extent possible with existing staff, implementing an independent reconciliation of batch sheets used to batch sheets shown on the control log.

**Finding 8: Annual Physical Tangible Personal Property Inventory and Records** – PD3 did not locate a hard copy print-out of the June 30, 2016 inventory when requested by the auditors. However, in the preparation of this response a review of the Inventory computer files located an excel inventory listing in .pdf format of the June 30, 2016 inventory. A copy will be provided upon request.



**Finding 9: Tangible Personal Property Records** – PD3 has one custodian and one custodian delegate. Therefore, the necessity of separate columns to identify the custodian and custodian delegate is redundant and unnecessary. The state class codes will be added to inventory listing. Due to PD3's limited and non-mobile inventory, the items are inventoried annually consistent with the fiscal year end of June 30<sup>th</sup>.

**Finding 10: Tangible Personal Property Disposals** – PD3 long ago established a *de facto* property review board for disposal of PD3 property which we believe complies with the statute. It has not been memorialized in writing. The process is for the custodian delegate to recommend disposal and the custodian reviews the recommendation. If he concurs the recommendation is presented to the elected Public Defender who either approves or rejects the recommendation. All three sign then property disposal form.

**Finding 12: Motor Vehicle Records** – Each vehicle has one assigned driver. Therefore, a log missing a name or signature does not create an auditing mystery. PD3 has no pool vehicles. Each of PD3's vehicles are assigned to specific employees for their specific duties. We will advise all drivers to sign their logs in the future. Departure and arrival times are not necessary as the employee has the vehicle full time. The audit also criticizes the failure to include tasks the vehicle was used for. This is intentional. What we do is largely confidential protected from disclosure as work product. Creating a log of what we do in a public record would be imprudent and, in some circumstances, possibly subject an attorney to discipline by the Florida Bar. On the issue of fuel receipts, occasionally a driver misplaces a fuel receipt, forgets to get one or one is unavailable at the fueling venue. There is still a record. PD3 uses WEX gasoline credit cards. A monthly report is received that shows the unit number, mileage, number of gallons, and price of each gasoline purchase. That is reconciled to the Vehicle Mileage and Gasoline Purchase Log. Drivers will be instructed to make sure all fuel receipts are retained in the future.

**Finding 13: Position Descriptions:** Even though the qualifications of Assistant Public Defenders are governed by law and rules of court, we will prepare a job description.

**Finding 14: Verification of New Employee's Education and Work Experience** – PD3 always confirms that all new hires meet the minimum requirements. Confirmation of this is supposed to be put in the employees file. This will be confirmed so inadvertent failures to document the information is minimized.

**Closing Comment:** This office is pleased the report found no inappropriate expenditures or mismanagement of funds. We are a very small office with very limited staff. While many of the procedures we have in place are not formalized, the small administrative staff makes every effort to operate the office in an efficient manner to the best of our ability with the limited staff provided.

Sincerely,



M. Blair Payne  
Public Defender  
Third Judicial Circuit





# Office of the Public Defender

## Fourth Judicial Circuit of Florida

Serving Duval, Clay & Nassau Counties

Charlie Cofer  
Public Defender

June 21, 2019

Lewis H. Buzzell III  
Chief Assistant

Sherrill F. Norman  
Auditor General, State of Florida  
Claude Denson Pepper Building  
Suite G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450

RE: Statement of Explanation and Response to the Preliminary and Tentative Audit Findings and Recommendations Issued June 4, 2019

Dear Ms. Norman:

Thank you for providing me with the preliminary and tentative audit findings and recommendations regarding the operational audit of the Public Defender's Office for the Fourth Judicial Circuit of Florida. This submission will serve as my statement of explanation concerning the findings related to my office, including my actual and proposed corrective actions.

Prior to taking office in January of 2017, I had informal conversations with employees of the Justice Administrative Commission (JAC) regarding concerns I had about the operation of PD4 under the previous administration. Many of my concerns were outlined in my initial letter to your office dated April 7, 2017. Because of these issues, I was pleased that my office was chosen to be included in this audit.

Part of my response indicates the inclusion of certain documents. As many of those documents cannot be included in WORD format, so they have been included as a separate pdf attachment to this letter.

I want to thank you and your staff for including PD4 in this operational audit, and with the opportunity to provide this response. Your staff was engaged and professional throughout the audit--it was a pleasure to work with them. Should you or your staff have any questions concerning this response, I can be contacted at [ccofer@pd4.coj.net](mailto:ccofer@pd4.coj.net) or 904-255-4600.

Sincerely,

*/s/ Charlie Cofer*

Charlie Cofer  
Public Defender  
Fourth Judicial Circuit of Florida



PD4 STATEMENT OF EXPLANATION AND ACTUAL AND PROPOSED  
CORRECTIVE ACTIONS IN RESPONSE TO THE PRELIMINARY AND TENTATIVE  
FINDINGS OF THE AUDITOR GENERAL'S OPERATIONAL AUDIT  
JUNE 21, 2019

Finding 1: Business Office Management System

**Recommendation:** The JAC and the applicable judicial agencies should:

- Take appropriate steps to ensure that, upon implementation of the new State accounting system, duplication of accounting efforts is limited and BOMS maintenance expenses are reduced.
- Establish business continuity and disaster recovery plans.

Upon implementation of the new State accounting system, PD4 will follow any solution developed by JAC to reduce the duplication of accounting efforts and BOMS maintenance expenses.

PD4 already has an established Continuity of Operations (COOP) plan which is reviewed and updated annually. We presently do a tape back-up on a daily basis of our BOMS data. We are in the process of purchasing a dedicated server that will back-up our BOMS data on a long-term basis, and plan on housing it at an off-site location. The server will likely be located in the city of Jacksonville's dedicated data center. An alternative location will be the Nassau County Emergency Services Department.

Finding 2: Internal Audit Function

**Recommendation:** We recommend that the Legislature consider whether the JAC and the other judicial agencies should employ, or otherwise provide for, an internal auditor with the qualifications and duties prescribed in State law for State agency directors of auditing. We also recommend that the JAC consider requesting the necessary positions and funding from the Legislature to implement an internal audit function.

PD4 would defer to the Legislature's decision in this matter. However, we note that providing a position and funding for an internal auditor in an agency the size of PD4 would probably not be cost-effective.

Finding 3: Policies and Procedures

**Recommendation:** The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N should establish and implement comprehensive policies and procedures.

As noted in the findings, PD4 has already adopted policies and procedures for conducting an annual physical inventory of tangible personal property.

As also noted, PD4 has followed existing State procurement guidelines as a matter of practice. In response to the preliminary report, PD4 has adopted a written inventory procedure that follows the procurement guidelines which are set forth in Chapter 273, Florida Statutes, and Chapter 69I-72, Florida Administrative Code (see pdf copy). We will follow any recommendations from JAC regarding the establishment of internal controls.



Finding 4: Anti-Fraud Policies and Procedures

**Recommendation: The JAC and the other judicial agencies should enhance their anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.**

PD4 has maintained a written policy against fraudulent, unethical and other dishonest acts since September, 2011 (see pdf copy). Each employee is required to read the policy and sign an acknowledgement that they understand the policy. This acknowledgement is placed into their personnel file.

As recommended, PD4 has now amended its 2019 Office Manual to provide additional information to employees on how they can anonymously report known or suspected fraud through the State Inspector General's Office hotline.

Finding 8: Annual Physical Tangible Personal Property Inventory and Records

**Recommendation: Judicial agencies should ensure that complete physical inventories of TPP are timely conducted and all required physical inventory information is maintained in accordance with DFS rules.**

The electronic inventory records of PD4 already include the condition of the tangible personal property (TPP) items at the date of inventory (see the pdf screenshot of our office's "green screen"). The downloaded spreadsheet provided from the database during the audit did not include the field which contained that information. This was our error.

Finding 9: Tangible Personal Property Records

**Recommendation: Judicial agencies should ensure that property records include, for each TPP item, the information required by DFS rules and that property items are assigned distinct property numbers.**

PD4 agrees with the recommendations and will adjust our practices to comply.

Finding 10: Tangible Personal Property Disposals

**Recommendation: The SA2, PD3, and RC5 should establish a review board to examine and make recommendations regarding surplus TPP. The JAC, PD4, and RC3 should enhance controls to ensure authorization for TPP disposals is properly obtained and documented in accordance with DFS rules and prescribed agency procedures.**

Shortly after taking office in January, 2017, I was alerted by office administrative staff that accepted procedures for the surplus of tangible personal property had not been followed during the last days of the prior administration. This related to the surplus/donation of nine firearms and a number of computers. It is my understanding that the former Public Defender did not consult with administrative staff on the surplus of the firearms, and over-ruled staff concerns regarding the surplus of the computers. After reviewing the matter, it was my determination that the firearms and computers had residual value to the office, and that it was inappropriate to surplus any of them.



The firearms had been donated to a private group that was not a charitable organization. A member of that group had resigned from the office shortly before the change in administrations. After negotiations with the former employee, the firearms were recovered and returned to the office inventory.

The computers had been donated to a charitable organization. That organization readily agreed to their return when contacted and the situation was explained to them. When the computers were returned, they did not contain hard drives. It is the belief of the present administration that the hard-drives had been removed from the computers prior to their donation to the charity. It is believed that the removal of the hard drives was part of a concerted effort by the prior administration to delete e-mails and other documents in violation of public records laws.

In response to the recommendations, PD4 has adopted a written inventory procedure that follows the surplus and disposal guidelines which are set forth in Chapter 273, Florida Statutes, and Chapter 69I-72, Florida Administrative Code (copy attached to pdf copy). However, it is difficult to successfully enhance controls to ensure the proper approval of TPP disposals if the head of the agency directs subordinates to violate those controls.

The present administration is committed to following the written procedures to ensure that TPP disposals are properly approved and documented in accordance with the written procedures.

#### Finding 12: Motor Vehicle Records

**Recommendation: The PD3 and PD4 should ensure, for all motor vehicles, that vehicle usage records include sufficient details, including the purpose and departure and arrival times for each use. In addition, the PD3 should ensure that fuel costs are supported by appropriate documentation.**

PD4 agrees with the recommendations.

PD4 has already modified its vehicle log to provide the reason for the vehicle's use and the times of departure and arrival. All vehicles owned by PD4 now have such logs (see pdf copy of sample log).

Under the previous administration, office vehicles were assigned to both the elected Public Defender and the Chief Assistant Public Defender on a full-time basis. I discontinued that practice upon taking office in January, 2017. Office vehicles are used by me and my Chief Assistant only for travel which is directly related to the operation of the office.

#### Finding 13: Position Descriptions

**Recommendation: The judicial agencies should develop position descriptions for all positions included in their classification and pay plans. Each position description should describe, at a minimum, the responsibilities to be performed and educational and work experience required.**

PD4 agrees with the recommendations. PD4 adopted a comprehensive Office Manual in early 2019. That Manual has been updated to set forth the minimum requirements of Assistant Public Defenders (APD) and Certified Legal Interns (CLI). Since Assistant Public Defenders practice law, they must be admitted to the Florida Bar. The pertinent portion of the PD4 Office Manual now states:



**Applicants for legal positions should submit a resume with references, a writing sample and a law school grade transcript. If a member of the Florida Bar, a certificate of good standing should be provided. Assistant Public Defenders must be members of the Florida Bar. Certified Legal Interns (CLI) must meet all of the requirements of Rule 11 of the Rules Regulating the Florida Bar.**

Finding 15: Compensatory Time and Administrative Leave

**Recommendation: PD4 policies and procedures should be enhanced to specify that personnel are not permitted to earn compensatory time or be paid for administrative leave for volunteer activities that do not primarily serve a public purpose related to the duties of a public defender prescribed by State law.**

PD4 agrees with the recommendation.

After taking office in January, 2019, I severed all connections between PD4 and the nonprofit organization (Vision for Excellence, Inc.) which had been incorporated by my predecessor. I also notified the Division of Corporations that the nonprofit organization was no longer associated with the office. During my tenure, no compensatory or administrative leave has been granted to any employees related to that nonprofit.

The 2019 Office Manual provides examples of situations in which employees are permitted to earn compensatory time or utilize administrative leave. As a result of the recommendations, the Office Manual has been updated with the following language:

**Compensatory time and administrative leave must serve a public purpose related to the duties of the Public Defender.**

Finding 16: Salary Increase Justifications

**Recommendation: The PD4 should ensure that all salary increases are supported by a documented performance evaluation, or other written justification, maintained in the applicable employee personnel file.**

PD4 agrees with the recommendation. We wish to clarify that we did not provide performance evaluations for the 14 employees who received the salary increases after my predecessor's primary defeat, since no such records exist. Had such records existed, they would have been provided.

I have adopted the practice of conducting annual employee evaluations, and those evaluations are maintained in the applicable employee personnel file.

Our general practice is to set forth the justification for any salary increase on the Personnel Action Report (PAR) when the increase is approved by me. We will continue to place a copy of each PAR into the employee's personnel file.

Finding 17: Unpaid debts to the State

**Recommendation: The PD4 should continue efforts to seek reimbursement from the former PD4 Public Defender and take other appropriate actions, including submittal of the required reports, in accordance with State law.**



PD4 agrees with the recommendation and will submit the required reports to the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer as required by Section 17.20(4), Florida Statutes on or before October 1<sup>st</sup>.

In my view, the failure of the former Public Defender to reimburse the office for his unpaid debts is a violation of the Rules Regulating the Florida Bar. I have drafted a complaint to the Florida Bar concerning these and other matters, and intend to submit it to the Bar upon receipt of the final audit report. In my view, referral of this matter to the Florida Bar is the most likely means to obtain payment of these debts to the State.

Finding 20: Contract Procurement

**Recommendation: The GAL and PD4 should enhance policies and procedures to ensure the use of a documented competitive selection process for procuring contractual services.**

PD4 agrees with the recommendation.

During the election campaign, I became aware that the office had contracted with a software provider for a new office case management system. After the primary, I met with my predecessor in his office. He advised me that the contract called for a fee for the development and implementation of the case management system, and that the provider would be charging a fee of \$1.00/case for data storage.

When I took office, I was advised by the office Administrative Director that the former Public Defender had entered into the contract without consulting with her. I reviewed the "contract" (which was essentially a signed proposal devoid of standard contract provisions), and learned that the data storage fee was actually \$2.25/case. Based upon the number of cases handled annually by the office, I made the determination that the case-management system was cost-prohibitive, and that the "contract" did not contain acceptable protections for the office. The existing system has functioned adequately, and is cost-effective since it was developed in-house. I contacted the provider, and they agreed to a termination of the agreement without further cost to the office.

The present administration of PD-04 is committed to procuring services through the use of a competitive selection process, whether it be through the use of a formal bid process where required, or by simply obtaining multiple quotes to obtain the best possible price during the regular procurement process. The Administrative Director (a Florida Certified Contract Manager) provides oversight of our procurement services to ensure that the procurement procedures of the Department of Management Services are followed.

Finding 21: Travel Expenditures

**Recommendation: The RC3 should enhance controls over travel expenditures to ensure that travel reimbursement requests are accompanied by supporting receipts or, if a receipt is not available, traveler certification with detailed information about the reimbursement requested. Also, PD4 should ensure that all travel is reasonable, economical, and supported by documentation evidencing that the travel serves a public purpose related to PD4 duties.**

PD4 agrees with the recommendation.



PD4 also agrees that none of the post-primary election travel by the former Public Defender was reasonable or economical. The former Public Defender was not actively involved in the handling of DUI cases while at the office, and did not utilize the training received at the San Diego conference to train any of his assistants.

As also noted in the findings, PD4 does not engage in the practice of immigration law. Therefore, his attendance at the immigration law seminar in New York weeks just prior to leaving office was neither reasonable nor economical. The room-rate charged for his stay at the seminar far exceeded the accepted rate set for State travel. A significant portion of the former Public Defender's legal practice since leaving office focuses on immigration matters—therefore, it appears that State funds were used to prepare him for private practice.

PD4 agrees with the recommendation that all travel must be reasonable, economical and supported by documentation evidencing that it serves a public purpose related to PD4 duties. Authorization for out-of-state training has been limited to instances in which the training is essential and there is no comparable training in-state. Additionally, we regularly require that attorneys who have attended out-of-state training to provide in-house training to other attorneys upon their return.

Submitted by,

*/s/ Charlie Cofer*

Charlie Cofer  
Public Defender  
Fourth Judicial Circuit of Florida



Administrative Office  
2101 McGregor Blvd., Suite 101  
Fort Myers, Florida 33901  
Telephone 239.208.6925  
Facsimile: 239.963.1534



Reply to: Fort Myers

**ITA M. NEYMOTIN**  
**OFFICE OF CRIMINAL CONFLICT AND CIVIL REGIONAL COUNSEL**  
**SECOND DISTRICT COURT OF APPEAL**

July 2, 2019

Ms. Sherril F. Norman, Auditor General, State of Florida  
Claude Denson Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Ms. Sherril F. Norman:

Please see our response and our corrective actions to the findings of the Operational Audit preliminary report dated June 4, 2019 conducted on the Office of Criminal Conflict and Civil Regional Counsel 2<sup>nd</sup> Region.

**Response to Finding 1**  
**Business Office Management System**

We will, in consultation with the JAC, work on developing a business continuity and disaster recovery plan.

**Response to Finding 2**  
**Internal Audit Function**

RC2 would defer to the Legislature's decision in this matter.

**Response to Finding 3**  
**Policies and Procedures**

Of the areas covered in this particular finding, only one applies to RC2, the necessity to establish policies and procedures for procurement of contractual services. RC2 has been using State Purchasing Guidelines, but it is the intent of RC2 to establish policies and procedures for procurement of contractual services in line with the Auditor's request.

**Response to Finding 4**  
**Anti-fraud Policies and Procedures**

Currently RC2 does distribute a handbook outlining "Policy Against Fraudulent and Other Dishonest Acts." This policy instructs employees to whom and how to

Judicial Circuits of Florida  
6<sup>th</sup>, 10<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup> & 20<sup>th</sup>

**6<sup>th</sup> CIRCUIT OFFICES**  
**Pasco, Pinellas**

15500 Lightwave Dr., Ste. 107  
Clearwater, FL 33760  
727-530-1400

13815 US Hwy. 98 Bypass  
Dade City, FL 33525  
352-521-1414

7334 Little Rd., Ste. 101  
New Port Richey, FL 34654  
727-842-2889

**10<sup>th</sup> CIRCUIT OFFICES**  
**Hardee, Highlands, Polk**

622 West Polk Street  
Bartow, FL 33830  
863-534-3689

750 N. 6<sup>th</sup> Ave.  
Wauchula, FL 33873  
863-773-3019

223 S. Commerce Ave.  
Sebring, FL 33870  
863-382-8936

**12<sup>th</sup> CIRCUIT OFFICES**  
**Bradenton, DeSoto, Sarasota**

25 East Oak Street  
Arcadia, FL 34266  
863-494-7139

1201 Sixth Ave. West, Ste. 515  
Bradenton, FL 34205  
941-740-7273

2033 Main Street, Ste. 517  
Sarasota, FL 34237  
941-316-8348

**13<sup>th</sup> CIRCUIT OFFICE**  
**Hillsborough**

601 N. Ashley Dr. Ste. 1200  
Tampa, FL 33602  
813-221-5134

**20<sup>th</sup> CIRCUIT OFFICES**  
**Charlotte, Collier, Glades,  
Hendry, and Lee**

2101 McGregor Blvd., Ste. 101  
Fort Myers, FL 33901  
239-208-6925

Hendry/Glades  
P.O. Box 1276 (All Mail)  
60 Calhoun Street  
LaBelle, FL 33975  
863-674-0444

2652 Airport Rd. S., 1<sup>st</sup> Floor  
Naples, FL 34112  
239-417-6209

407 East Marion Ave., Ste. 102  
Punta Gorda, FL 33950  
941-639-4545



report any evidence of fraud. "Any ORCC2 employee who has knowledge of such activity shall immediately notify their supervisor. The supervisor shall then notify the Regional Conflict Counsel or Chief Assistant Regional Counsel. If it appears to be criminal, then the Regional Conflict Counsel or Chief Assistant Regional Counsel will notify Law Enforcement. If the employee has reason to believe that their supervisor may be involved, the employee shall immediately notify the Regional Conflict Counsel or Chief Assistant Regional Conflict Counsel."

In addition to this, we will develop a "hotline" and procedures surrounding that so that any anonymity of the reporting individual can be maintained.

### **Response to Finding 6** **Separation of Duties**

Specifically pointed out in this area is the fact that the RC2 Administrative Director has (had) the incompatible duties of creating and approving PAR forms and reconciling monthly payroll information to the payroll records.

RC2 currently does have a procedure in place to approve PAR forms. The Administrative Director initiates the request by sending an e-mail to Regional Counsel. The Regional Counsel approves, modifies, or denies the request via e-mail back to Administrative Director. Subsequently, Administrative Director drafts a letter for Regional Counsel's signature to be mailed to individual.

(See paperwork examples attached as Attachments 1, 2, and 3)

Below, I have outlined current RC2's payroll process.

#### **RC2'S PAYROLL PROCESS**

1. An applicant is chosen as an employee after interviews.
2. An email is sent to Ms. Neymotin for Approval on the amount for salary or hourly rate.
3. Ms. Neymotin sends email with approval for the hire.
4. Employees are required to keep time records of their work hours electronically.
5. Supervisors sign off on the time sheets approving the time record.
6. Diana Golden, in Administration, downloads the time into BOMS.
7. Payroll PAR's are created in BOMS by Joshua Johansen and Alla Gordon once the time is downloaded into BOMS.
8. PAR's are signed by Diana Golden.
9. Joshua Johansen and Alla Gordon, or other staff, scan the PAR' s to the Justice Administrative Commission for payment.
10. Checks are received in the mail and reconciled to the Payroll PAR's by Glenn Huttner.
11. Checks are placed into envelopes by Lisa Miller for either hand delivery or mail delivery.

### **Response to Finding 8** **Annual Physical Tangible Personal Property Inventory and Records**

First it should be noted that the findings were based on a review of the 2015-16 fiscal year inventory.



Since that time, in response to Bullet Point 3, physical condition of items at the time of inventory is now being manually entered on the inventory sheet during the inventory instead of being added at the conclusion of inventory.

In response to Bullet Point 6, all serial numbers have been entered into the database with the exception of those items that do not have serial numbers or items that have been permanently affixed or mounted where serial numbers are inaccessible.

In response to Bullet Point 7, all items in the TPP inventory now have the acquisition date annotated.

In response to Bullet Point 8, all items now have the State classification code.

**Response to Finding 9**  
**Tangible Personal Property Records**

Of the Bullet Points, only Bullet Points 5 and 6 are related to RC2.

In the case of Bullet Point 5, we do now have all state classification codes on the individual property records.

Also, in response to Bullet Point 6, all names, makes, and manufacturers information has been entered.

**Response to Finding 11**  
**Accountability for Property Items Valued or costing Less than \$1,000**

Generally for items valued at less than \$1,000 the Government Finance Officers Association (GFOA) indicates that adequate controls should be in place for items that should be 1) tracked for legal compliance, 2) items that should need special attention for protection of public safety and/or potential liability in the event of theft, and 3) items requiring special attention due to a heightened potential risk of theft.

Generally the only items maintained by RC2 falling into any of these 3 categories would be those falling into Category 3, that is computers, laptops, cell phones and other electronic-type items that may be considered portable. To mitigate against major losses in this area, RC2 consistently purchases at the lower end of the market.

Nonetheless, we will maintain records for those items valued at more than \$600 on a manual spreadsheet.

It should be noted that the GFOA guidelines suggest that controls should occur at the departmental level (i.e. this would be the outlying offices). Further, the central accounting function (in this case RC2 headquarters in Lee County), should periodically verify the data "no less than once every 5 years on a rotating basis". It should be remembered that RC2 geographically is spread over quite a large area, and the cost/benefit of such follow ups and accounting should be considered.

**Response to Finding 13**  
**Position Descriptions**

Effective January 2019, the RC2 developed a position description for Assistant Regional Counsel. The position description is attached as attachment 4 (a) and (b).

Sincerely,



Ita M. Neymotin  
Regional Counsel, 2<sup>nd</sup> District

Attachments:

1. Archived email discussing pay changes
2. Employee notification letter of pay increase
3. Personnel Action Request (PAR) form requesting pay increase
- 4a. Assistant Regional Counsel position description pg. 1
- 4b. Assistant Regional Counsel position description pg. 2





LAW OFFICES OF THE  
**Criminal Conflict and Civil Regional Counsel**

THIRD REGION OF FLORIDA

Serving Miami-Dade and Monroe Counties

401 N.W. 2nd Ave, Suite S-310,  
Third Floor, Rohde Building  
Miami, Florida 33128

**EUGENE F. ZENOBI**  
REGIONAL COUNSEL

TEL: (305) 679-6550  
FAX: (305) 679-6560

July 3, 2019.

The Honorable Sherrill F. Norman, CPA  
Auditor General  
State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Please accept this correspondence as this agency's written response to the Auditor General's preliminary and tentative findings, and corresponding recommendations, resulting from your agency's recent operational audit of the Justice Administration Commission ("JAC"); the Offices of the State Attorney for the Third, Fifth, and Sixth Judicial Circuits; the Offices of the Public Defender for the Third and Sixteenth Judicial Circuits; and for each of the five Offices of Criminal Conflict and Civil Regional Counsel, including this agency, herein after referred to as "RC3." The report of your agency's findings and recommendations were communicated to this agency *via* a correspondence from you dated June 4, 2019. Please find our responses to Finding Nos. 1, 2, 3, 4, 8, 9, 10, 13, 14, and 21 as follows:

**Finding No. 1: Business Office Management Systems (BOMS)**

RC3 understands the recommendations made regarding BOMS. RC3 will defer to JAC as to the effectiveness of BOMS and as to the extent that its use may be duplicative with FLAIR.

**Finding No. 2: Internal Audit Function**

RC3 will defer to JAC and the Legislature on this issue, as it deals with both funding and policy, which is their purview.

**Finding No. 3: Policies and Procedures**

RC3 accepts the recommendation in Finding 3 (Policies and Procedures) and will establish an Administrative Procedures Manual detailing comprehensive administrative policies and procedures.

**Finding No. 4: Anti-Fraud Policies and Procedures**

As recommended, RC3's policies and procedures will be amended to allow individuals to anonymously report policy violations and known or suspected fraud.

**Finding No. 8: Annual Physical Tangible Personal Property Inventory and Records**

RC3 concurs with the recommendation in Finding 8 (Annual Physical Tangible Personal Property Inventory and Records) and will work to ensure that the annual physical tangible personal property inventory will be timely conducted. Additionally RC3 will ensure that all required physical inventory information will be maintained in accordance with DFS rules, as well as the RC3 Administrative Procedure Manual.

**Finding No. 9: Tangible Personal Property Records**

RC3 concurs with the recommendation in Finding 9 (Tangible Personal Property Records) and will work to ensure that property records include the information required by DFS rules (for each inventoried item) and that property items will be assigned distinct property numbers, as defined by both DFS and the RC3 Administrative Procedure Manual.

**Finding No. 10: Tangible Personal Property Disposal**

RC3 concurs with the recommendation in Finding 10 (Tangible Personal Property Disposals) and will work to enhance controls to ensure that authorization(s) of property disposals are properly obtained and documented in accordance with DFS rules and the RC3 Administrative Procedure Manual.

**Finding No. 13: Position Descriptions**

RC3 appreciates the recommendation in Finding 13 (Position Descriptions) and will adopt any the FL Bar Association provisions for attorney practices as the Position Description for Assistant Regional Counsel to address the responsibilities to be performed, as well as educational and work experience required.

**Finding No. 14: Verification of New Employees' Education and Work Experience**

RC3 concurs with the recommendation in Finding 14 (Verification of New Employees' Education and Work Experience) will establish protocols to verify and document (prior to hiring) any applicants' experience and educational requirements and that the a record of the verification is present in the personnel records.



**Finding No. 21: Travel Expenditures**

RC3 concurs with the recommendation Finding 21 (Travel Expenditures) and will take action to ensure travel reimbursement requests are accompanied by proper supporting receipts and/or traveler certification as necessary.

Thank you for the time and effort put forth by your staff to conduct this audit and the opportunity to respond to the findings and recommendations.

Sincerely,

*/s/ Jorge I. Sanchez*

Jorge I. Sanchez  
Chief Administrative Director  
Criminal Conflict & Civil Regional Counsel,  
Third Region of Florida

**STATE OF FLORIDA  
OFFICE OF CRIMINAL CONFLICT  
AND CIVIL REGIONAL COUNSEL  
FOURTH DISTRICT**



**ANTONY P. RYAN,  
REGIONAL COUNSEL**

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*Palm Beach County   Broward County   Indian River County   Martin County   Okeechobee County   St. Lucie County*

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July 3, 2019

Sherrill F. Norman, CPA  
Auditor General, State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450

RE:    Amended Response to Preliminary and Tentative Findings of Operational Audit  
       (July, 2015 – December, 2016 period)

Dear Ms. Norman:

Please accept this correspondence, in satisfaction of Florida Statute §11.45(4)(d), as this agency's written response to the Auditor General's preliminary and tentative audit findings, and corresponding recommendations, resulting from your agency's recent operational audit of the Justice Administration Commission ("JAC"); the Office of the State Attorney for the Second Judicial Circuit; the Offices of the Public Defender for the Third and Fourth Judicial Circuits; the Office of the Capital Collateral Regional Counsel Northern Region; and for the Second, Third, Fourth, and Fifth DCA regions of the Offices of Criminal Conflict and Civil Regional Counsel. (Note: hereinafter in this correspondence this agency will be referred to as "RC4.") The report of your agency's findings and recommendations were communicated to this agency *via* a correspondence from you dated June 4, 2019. For the sake of simplicity, I will respond, in order, to findings 1- 4; findings 8 – 9; and findings 13 - 14 without restating the findings and recommendations herein.

*Finding No. 1, relative to "BOMS:"* RC4 defers to JAC as to the effectiveness of BOMS and as to the extent that its use may be duplicative with FLAIR. Additionally, RC4 understands that JAC established a work group which would address business continuity and disaster recovery for the BOMS system; RC4 will endeavor to implement any and all recommendations from the workgroup regarding BOMS.

*Finding No. 2, relative to Internal Audit Function:* RC4 adopts JAC's response to this finding in JAC's June 26, 2019 correspondence regarding these preliminary and tentative findings.

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*Finding No. 3, relative to Policies and Procedures:* RC4 disputes being included in the general statement that it is one of “several judicial agencies which had not established comprehensive procedures.” This is a misleading and overbroad statement as written, and it is contradicted further within the full text of this finding itself wherein it is stated:

- “RC4 . . . indicated that RC4 . . . had implemented procedures for conducting the annual physical inventory of TPP, but the procedures had not been established in writing”; and
- “RC4 . . . indicated that RC4 . . . had implemented procedures for verifying education and work experience requirements for new hires, but the procedures had not been established in writing.”

Prior to the audit period, RC4 had, in fact, established and did, in fact, follow procedures both for conducting the annual physical inventory and for verifying education and work experience requirements. These procedures were explained in detail in response to specific inquiries made by the assigned assistant auditors. See January 29, 2019 reply to “RC04 – Formal Procedures” email from assistant auditor Michael Nichols. If the intention for this “finding” is a recommendation that these specific procedures be *reduced to writing* in formal documents, RC4 would accept such a recommendation and would create formal, written documents which memorialize these current procedures. In general, however, RC4 adamantly contends that comprehensive procedures which ensure “the effective, efficient, and consistent conduct of business and the effective safeguarding of assets” are established and followed at RC4.

*Finding No. 4, relative to Enhancing Anti-Fraud Policies & Procedures:* RC4 concurs with the spirit of the recommendation that RC4’s existing anti-fraud policies and procedures could be enhanced (along with the other judicial agencies) by incorporating anonymity, and RC4 will collaborate and problem-solve with JAC as to amending its existing policies and procedures (modeled after JAC’s) to implement methods whereby reporting could be made anonymously.

*Finding No. 8, relative to the Annual Physical Tangible Personal Property Inventory and Records:* RC4 partially disputes this finding. To RC4’s knowledge, for the required inventory per Florida Administrative Code – *i.e.*, items greater than \$1,000 in value -- RC4 did always include “the custodian, or the custodian’s delegate, with assigned responsibility for the TPP items” in its inventory records. For items less than \$1,000 in value, for which an inventory is not required per FAC, RC4 acknowledges it did not always include the specified custodian/delegate information during the audit period; however, RC4 does so currently.

*Finding No. 9, relative to Tangible Personal Property Records:* RC4 disputes this finding. Following the previous audit, RC4 updated its property records to ensure compliance with Rules 69I-72.003 and 69I-72.005 of the administrative code. However, as noted in response to the previous audit, and in response to the specific inquiries made about these items during the current audit period, the information deemed lacking is not available to RC4’s present administration because it was not recorded and memorialized at the time of acquisition in the previous administration (*i.e.*, prior to December, 2011). To resolve the issue as to the missing information for certain items, RC4 will make new entries into the inventory forms with a notation to the effect that the information for the specific data points is “unknown, not memorialized at time of acquisition by the previous administration.”

*Finding No. 13, relative to Position Descriptions:* RC4 accepts the recommendation to develop a position description for the position of Assistant Regional Counsel and RC4 will work with the other RC agencies to include a uniform Assistant Regional Counsel position description in the RC's joint classification and pay plan.

*Finding No. 14, Verification of New Employees Education and Work Experiences:* RC4 partially disputes this finding. RC4 contends that it has established procedures for verifying education and work experience of new hires. Please see the response to *Finding No. 3, above*, and *See* January 29, 2019 reply to "RC04 – Formal Procedures" email from Mr. Nichols. However, RC4 accepts the spirit of the recommendation that documentation of the verification performed could be made more uniform and more readily apparent in personnel files.

Gina Gillette, RC4's Administrative Director, and I thank you for the ample time and consideration Michael Nichols, Walt Cunningham, and Tonya Gaines extended to us in conducting the audit and in explaining your agency's findings. We appreciate the painstaking care that you and your staff put into this endeavor.

Should you have any questions regarding this response, or should you require any further information, please do not hesitate to contact me or Ms. Gillette. We here at RC4 strive for the highest quality in our administrative processes and are ever mindful of employing and demonstrating the core principles and best practices of good governance.

Sincerely,

/s/ *AP Ryan*

ANTONY P. RYAN  
Regional Counsel / Director

APR/jmk





STATE OF FLORIDA

## CRIMINAL CONFLICT AND CIVIL REGIONAL COUNSEL

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June 28, 2019

The Honorable Sherrill D. Norman, CPA  
Auditor General  
G74 Claude Denson Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Re: Response to the Preliminary and Tentative Findings from the Operational Audit of the Office of Criminal Conflict and Civil Regional Counsel, 5<sup>th</sup> District

Dear Ms. Norman:

Pursuant to s. 11.45(4) (d), F.S., please find this written response to the Auditor General's preliminary and tentative findings from the operational audit of the Office of Criminal Conflict and Civil Regional Counsel, 5<sup>th</sup> District (RC5).

If you have any questions or require further information, please do not hesitate to call.

Sincerely,

*Jeffrey D. Deen*

Jeffrey D. Deen,  
Regional Counsel



STATE OF FLORIDA

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June 28, 2019

**In response to finding number 1, (Business Management System),** RC5 has no comment on finding number 1 and defers to the Justice Administrative Commission's response. RC5 will be implementing an independent recovery plan by the end of the 2<sup>nd</sup> quarter of FY 19/20.

**In response to finding number 2, (Internal Audit Function),** RC5 has no comment on finding number 2.

**In response to finding number 3, (Policies and Procedures),** RC5 disagrees with the comment that "RC5 Administrative Director indicated that their agency had not established procedures for conducting an annual physical inventory ..." That is simply not accurate. RC5 conducts quarterly inventories of all its property and accounts for all of it in 9 offices. The current procedures have been followed and previously audited without major issues. RC5 inventories its facilities three times more in a year than is required. If the finding is that RC5 should put some specific policy in writing, then RC5 will add it to its policy manual.

RC5 also disagrees with the similar comment that there are no established procedures requiring documented verification that new hires meet "minimum education and work experience". RC5 has long ago implemented procedures and they are followed with each new hire. They incorporate eligibility to practice law and verification of suitability by contacting references in each new attorney hire and reference checks when hiring new staff. The auditor acknowledges RC5 does in fact have procedures but that they are not in writing. Again, if the finding is that RC5 should put some specific policy in writing the RC5 will add it to its policy manual.

**In response to finding number 4, (Anti-Fraud Policies and Procedures),** RC5 has adopted and implemented the fraud policy implemented by the Justice Administrative Commission and has no further comment on this finding. RC5 defers to the Justice Administrative Commission's response.



**In response to finding number 8,  
(Annual Physical Tangible Personal Property Inventory and Records),** RC5 concurs with this recommendation and has taken the necessary steps to include the custodian and the state class code to all inventory items.

**In response to finding number 9,  
(Tangible Personal Property Records),** RC5 concurs with this recommendation and has taken the necessary steps to include the custodian and the statewide document number to all inventory items. All dates have been updated to the inventory.

**In response to finding number 10,  
(Tangible Personal Property Disposals),** RC5 will formalize the current process by which inventory is currently and correctly disposed and will establish a "review board".

**In response to finding number 13,  
(Position Description),** RC5 accepts this recommendation but cannot adjust its own pay plan independently.

**In response to finding number 18,  
(Other Personal Service Time Sheets),** RC5 accepts this recommendation.

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CAPITAL COLLATERAL REGIONAL COUNSEL  
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CAPITAL COLLATERAL REGIONAL COUNSEL  
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Tallahassee, FL 32301

June 27, 2019

Sherrill F. Norman, CPA  
Auditor General  
State of Florida  
Claude Denson Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Ms. Norman,

Pursuant to Section 11.45(4)(d), Florida Statutes, please consider this as Capital Collateral Regional Counsel – North's (CCRC-N) response to the preliminary and tentative audit findings dated June 4, 2019 regarding our operational audit.

**Finding No. 1: Business Office Management Systems (BOMS)**

CCRC-N recognizes the recommendations made regarding BOMS. Since the product did not meet CCRC-N's agency needs, our office exercised our right to terminate the BOMS maintenance agreement with Computer Information and Planning Inc. (CIP) on January 12, 2017. CCRC-N no longer has BOMS (CIP). At this time, the electronic accounting system used by CCRC-N allows business continuity taking into consideration disaster recovery.

**Finding No. 2: Internal Audit Function**

CCRC-N will work with the Justice Administrative Commission (JAC) and will defer to the Legislature on this issue as it deals with both funding and policy which is within the Legislature's purview.

**Finding No. 3: Policies and Procedures**

CCRC-N concurs with the recommendation and has taken and continues to take the necessary steps to ensure there are comprehensive written policies and procedures within the agency addressing travel and personnel issues, procurement, property control, and payroll processing.



**Finding No. 4: Anti-Fraud Policies and Procedures**

CCRC-N concurs with the recommendation and its policies and procedures will be amended to allow individuals to anonymously report policy violations and known or suspected fraud.

**Finding No. 6: Separation of Duties**

CCRC-N concurs with the recommendation made regarding Separation of Duties. However, during the audit period, due to the limited number of CCRC-N employees, the Office Staff Assistant and the Agency Head independently did walk-throughs of the agency to view property items, and both were aware of the physical inventory. The Agency Head did sign and date each annual inventory list submitted to JAC at fiscal year-end. CCRC-N continues to strive to ensure compatible Separation of Duties.

**Finding No. 7: Reporting Requirements**

CCRC-N is subsequently in compliance with Section 27.702(4)(b), Florida Statutes, and is now providing quarterly reports to both the President of the Senate and the Speaker of the House.

**Finding No. 8: Annual Physical Tangible and Personal Property Inventory and Records**

CCRC-N concurs with the recommendation and strives to ensure the annual physical tangible personal property inventory is timely conducted and that all required physical inventory information is maintained in accordance with DFS rules.

**Finding No. 9: Tangible Personal Property Records**

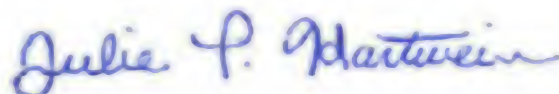
CCRC-N concurs with the recommendation and strives to ensure that property records include, for each inventoried item, the information required by DFS rules and that property items are assigned distinct property numbers as applicable.

**Finding No. 14: Verification of New Employees' Education and Work Experience**

CCRC-N concurs with the recommendation and strives to ensure that procedures are amended to verify and document, prior to hiring, that potential employees meet the experience and educational requirements of the position in the personnel records.

Thank you for your comments and recommendations which are of valuable assistance to us in improving the efficiency and operations of CCRC-N.

Sincerely,



Julie Pearson Hartwein  
Administrative Services Director



Robert S. Friedman  
Capital Collateral Regional Counsel – North

## Redaction Log

Total Number of Redactions in Document: 3

### Redaction Reasons by Page

Page	Reason	Description	Occurrences
3	ASA or LEO	Law Enforcement Officer EOs, Firefighters, State Attys, Civilian Employees - home addresses, telephone numbers, dates of birth, places of employment, and photographs (names, etc. of spouses & children) § 119.071(4)(d), F.S.	1
5	ASA or LEO	Law Enforcement Officer EOs, Firefighters, State Attys, Civilian Employees - home addresses, telephone numbers, dates of birth, places of employment, and photographs (names, etc. of spouses & children) § 119.071(4)(d), F.S.	1
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## Redaction Log

### Redaction Reasons by Exemption

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